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U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

OFFICE OF THE GENERAL COUNSEL

COPY

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July 10, 2001

Mary Ellen Fise
General Counsel
Consumer Federation of America
1424 16th Street, N.W.
Washington, D.C. 20036

Dear Ms. Fise:

Your submission dated June 21, 2001 requesting that the Commission issue three rules concerning the recall of children's products has been forwarded to the Office of General Counsel for a determination of whether your requests should be docketed as petitions for rulemaking. You request that the Commission issue rules under section 10 of the Federal Hazardous Substances Act ("FHSA") that would require: (1) a product registration card be provided with every product intended for children; (2) the remedy for recalls of products intended for children remain in effect indefinitely or as long as the affected company is in business; and (3) identification information be permanently provided on every product intended for children.

We are docketing your request for a rule requiring product registration cards, as it meets the Commission's requirements for petitions as set forth in 16 C.F.R. Part 1051. However, we believe that the Consumer Product Safety Act ("CPSA") is the appropriate statute for such a rulemaking, and are docketing your petition under that statute. As you know, shortly before we received your petition, the staff forwarded to the Commission a briefing package recommending that the Commission issue an advance notice of proposed rulemaking ("ANPR") to begin a rulemaking addressing a product registration card system. The issue is to be considered by the Commission.

At this time, we are not docketing your requests for rules requiring indefinite recall remedies and identification information on all children's products. As discussed below, because we have serious questions about whether the Commission has the authority to issue such rules under section 10, we do not find that your requests, as currently presented, meet the Commission's petition requirements (a copy of these regulations is enclosed). You are welcome to provide further support for the argument that the Commission has such authority under section 10 or any other provision.

Product Registration Card Request. You ask for the Commission to issue a rule under section 10 of the FHSA that would require manufacturers (or distributors, retailers or importers) of products intended for children to provide a product registration card along with every product. We are docketing this request as a petition. However, we believe that the appropriate authority for such a rule is section 16(b) of the CPSA, 15 U.S.C. § 2065(b), which authorizes the Commission to require manufacturers, private labelers and distributors of consumer products to "establish and maintain such records, make such reports, and provide such information as the Commission may, by rule, reasonably require for the purposes of implementing this Act." As discussed below, the FHSA does not make violation of a section 10 rule a prohibited act. Thus, the Commission would have serious difficulties enforcing a registration card rule issued under section 10 of the FHSA. Section 16(b) of the CPSA authorizes the Commission to issue rules pertaining to record-keeping. We believe this is the appropriate authority for the type of rule you request.

Indefinite Recall Remedy Request. The Commission may only docket as petitions requests for action it is authorized to take through the issuance, amendment, or revocation of rules. 16 C.F.R. § 1051.2(a). It is not clear that the Commission has the authority to issue a rule requiring that remedies for corrective actions under section 15 remain in effect indefinitely. Section 10 of the FHSA provides general authority to issue "regulations for the efficient enforcement" of the FHSA. However, we have not located any authority for the proposition that the Commission may issue a rule imposing a specific condition on all corrective actions negotiated under section 15. The length of time a section 15 remedy should remain in effect can certainly be negotiated as part of the corrective action or imposed by an administrative law judge. However, as you know, corrective actions are not conducted through rulemaking. Nevertheless, we think the issue you raise can be addressed by other means. In response to your petition, Chairman Ann Brown stated that, "We are taking steps today to advise recalling companies to maintain a contact number for recalls indefinitely."

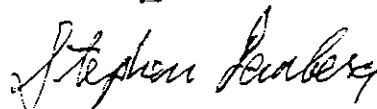
Request for Identification Information on Children's Products. You ask for a regulation requiring that the name, address and telephone number of the manufacturer, distributor, retailer, or importer, or the company's name, telephone number, and web address, be permanently placed on every children's product or product part. You cite section 10 of the FHSA as the authority for such a rule. We question whether section 10, which authorizes rules for the efficient enforcement of the FHSA, gives the Commission authority to issue such a rule. It is clear that section 10 may be used to interpret or help enforce Commission authority derived elsewhere in the FHSA, but we have not located any authority permitting the Commission to impose obligations unconnected to any other FHSA provision. A rule under section 10 that is not connected to a different, enforceable provision of the FHSA does not appear to be enforceable itself under the FHSA. Section 4 describes acts that are prohibited by the FHSA and does not provide that violation of section 10 is a prohibited act. 15 U.S.C. § 1263. A prohibited act under the FHSA must involve a misbranded or banned hazardous substance, as those terms are defined by the statute. Thus, if the Commission were to issue a rule requiring identifying information on certain products, how would it enforce the rule when products lacking that information are not banned or misbranded hazardous substances?

Page 3

As you may know, the Commission published a notice of inquiry on November 7, 1994 concerning a possible rule similar to what you request -- requiring children's products and fireworks be permanently marked with identifying information. 59 Fed. Reg. 55448 (1994). On February 22, 1995, the Commission decided to terminate the inquiry. 60 Fed. Reg. 24263 (1995). Although the Commission issued this notice of inquiry and opened up discussion about requiring that certain products be marked with identifying information, the Commission never addressed whether it had legal authority to issue such a rule. It terminated the inquiry before actually beginning a rulemaking and reaching this question. Your request raises this issue.

Again, we would be interested in any support you have for your theory that section 10 authorizes rules requiring that products be marked with identifying information and requiring indefinite recall remedies. We appreciate your sharing your concerns with the Commission.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephen Lemberg".

Stephen Lemberg
Assistant General Counsel

Enclosure

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OS 20010183



Consumer Federation of America

~~SECRET~~
CPSA 6 (b)(1) Cleared

No Mfrs/PrvtLbrs or
Products Identified
Excepted by 4/10, 2519
Firms Notified,
Comments Processed.

21 JUL 21 12 12 PM '01
U.S. CONSUMER PRODUCT SAFETY COMMISSION

June 21, 2001

Office of the Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Suite 502
Bethesda, MD 20814

Enclosed for filing please find a petition being submitted by Consumer Federation of America concerning Recalls of Products Intended for Children.

Thank you for your attention to this document.

Sincerely,

Mary Ellen R. Fise
General Counsel

POSSIBLE PETITION

CPSA 6 (b)(1) Cleared

No Mfrs/PrvtLblrs or
Products Identified
☒ Excepted by *April 25/97*
Firms Notified,
Comments Processed.

In the United States of America
Before the Consumer Product Safety Commission

In the Matter of the Petition of
Consumer Federation of America
To Establish Regulations
Governing Recalls and Information
For Consumers Concerning Children's
Products

No. _____

Pursuant to the Administrative Procedures Act, 5 U.S.C. section 553 (e) and regulations of the Consumer Product Safety Commission (CPSC), 16 C.F.R. sections 1051 and 1500.201, Consumer Federation of America hereby petitions the CPSC to establish regulations under section 10 of the Federal Hazardous Substances Act, 15 U.S.C. section 1269, governing the recall of products intended for children. Such regulations would help provide for the efficient enforcement of the FHSA and specifically sections 15 (a) (b) and (c), 15 U.S.C. section 1274.

I.

Interest of Petitioner

This petition is brought Consumer Federation of America (CFA). CFA is the nation's largest consumer advocacy organization representing over 280 state, local, and national consumer organizations and over 50 million consumers. CFA has been a strong advocate of protections for children, including CPSC standards, bans, and recalls affecting products intended for children. For the past 20 months, CFA's sister organization Consumer Federation of America Foundation has been in the process of developing a comprehensive Internet website focusing on children's safety and health. As part of that web development, CFAF reviewed all CPSC recalls involving products intended for children.

II.

Need for Regulations

It is clear that additional measures are needed to improve recall effectiveness. In Fiscal Year (FY) 1996, CPSC recalls experienced an 18% return rate. In FY 1997, the return rate fell slightly to 16%.¹ This petition seeks three regulations to assist the agency in the effective

¹ These are the most recent data we have on recall effectiveness. While the Fast Track recall program has led to an increase in return rates to 60% in FY 1996 and 53% in FY97, it primarily takes care of product retrieval in the early parts of the distribution channel and not when the product is in the hands of consumers. The overall return percents (16% in 1997 and 18% in

enforcement of the Federal Hazardous Substances Act provisions affecting recalls of children's products. See sections 10 and 15(a) (b) and (c) of the FHSA. The need for each of these regulations is discussed below.

A) Indefinite Availability of Recall Remedy

A recent study by CFA of recall contact numbers provided by companies subject to CPSC corrective action plans found a disturbing number of companies that fail to honor their recalls.

On June 21, 2001, Consumer Federation of America Foundation, is launching a new comprehensive child safety and health website, www.SafeChild.net, intended for parents, professionals who work with children, and advocates who work to protect children. This website includes all recalls of products intended for children from 1990 to present. In the cases of products that have a long useful life (and typically a higher price tag), we recognized that consumers may have products that were recalled before 1990 in their homes and therefore have also included older recall information on those products. These include: cribs, bunk beds, playground equipment, and all terrain vehicles. The website also contains some limited recall information on some products that, while not intended for children, promote safe environments for children (such as smoke alarms/detectors).

In preparation for listing all of these recalls on our website, we contacted (and are still contacting)² the manufacturers, importers, distributors or retailers designated in the CPSC press release by calling the phone number listed in the release. These are the numbers that CPSC and the recalling company advise consumers to call to get more information about the recall remedy. We wanted to make certain that the information we intended to include for visitors to our website was accurate. Thus, we did not set out in this endeavor to prepare a report on recall contact information. However, a few days into calling we realized a disturbing pattern – that not all the contact information contained in the CPSC Press Releases was accurate and not all companies were continuing to honor recalls. When we first recognized a pattern, we began to keep notes on all contacts that were in error or where we talked to a company representative who indicated that they were no longer honoring the recall.

As a result of our recall checks, we have identified 108 companies, listed in CPSC Press Releases and contained on the CPSC website, that fail to honor their recalls. These failures fall into six categories:

Wrong Number: (62 cases) Typically this was a recording such as "your call cannot be completed as dialed" or "the number is invalid" or "this number is no longer in service." This category also includes calls answered by a person (including personal residences) or company that was clearly not the company listed in the recall.

Fax Machine or Pager: (7 cases) Here the telephone number called resulted in a fax machine beeping noise or pager beep.

Disconnected: (13 cases) These numbers resulted in a recording saying that the number was disconnected or no longer in service.

1996) are more appropriate to examine when discussing getting hazardous products out of consumers' homes.

² As of June 21, 2001 we are still contacting the companies involved in toy recalls. If we learn of additional cases where companies fail to honor a recall we will forward that information to CPSC.

Always Busy: (2 cases) In these cases the phone number was always busy (during multiple attempts).

No Parts Available: (6 cases) In this category, the call was answered but in requesting information about the recall, we were told that the company was no longer honoring the recall because parts were not available. In one case the company said that they didn't make the product any longer and therefore were not honoring the recall.

Unsure of Continued Participation: (18 cases) For these calls, the company representative either did not know of the recall, claimed not to be part of any recall, indicated that the recall would only be honored for six years, or would be honored for six years if parts were still available. In one case the company told us that they had sent a letter to CPSC requesting that the case be closed because they had received very few returns. In many of the cases in this category we talked to several different people in the company.

See **Appendix A** for a complete list of the companies, recalls and responses to our CPSC product recall information checks.³

To determine whether there was some undisclosed time limit on recalls that CPSC was negotiating with companies subject to recalls, we twice asked senior CPSC Compliance staff if there was any limit on how long a CPSC recall is in effect. Both times we were told unequivocally that recalls should last "indefinitely."⁴ While we appreciate the CPSC staff's determination to provide recall remedies indefinitely, we believe that a regulation codifying this position is needed.

We also ask CPSC Compliance Staff to contact the companies identified in this report and insist that they honor the recall. If CPSC learns that the company is not in business, we also request that the agency alert consumers, in addition to our doing so, of the dangers associated with these products and of the need to throw them away.

B) Manufacturer Identity and Contact Information

The petition seeks a regulation requiring that the name, address and telephone number of the manufacturer, distributor, retailer, or importer or the name, telephone number and web address of the manufacturer, distributor, retailer, or importer (provided certain conditions are met) be **permanently** on the product or product part.

Currently only children's products that the agency has declared to be hazardous substances (generally those that have an identified electrical, mechanical, or thermal hazard), are required to have the "name and place of business of the manufacturer, packer, distributor or

³ In addition to the results listed in the chart in Appendix A, it should be noted that we often had difficulty getting through to companies not listed in this report. We had to phone these companies many times on several different days until the phone was answered. While not deemed a failure in this study, it most likely would have been had a consumer been contacting the company. After two or three tries, we suspect that most people would have given up.

⁴ M. Schoem, public comments at the International Consumer Product Health and Safety Organization Conference, February, 2001; and telephone conversation with A. Schoem.

seller" only on the label of the product.⁵ If such products do not have this information they are "misbranded hazardous substances" by definition. See Section 2(p)(1) of the FHSA, 15 U.S.C. 1261. Introduction into commerce of a misbranded hazardous substance is prohibited by the FHSA (Section 4(a), 15 U.S.C. section 1263).

CFA seeks this regulation to improve and enhance:

1. Consumers' ability to determine if they have the product that is subject to the recall

Consumers need to know whether the recall being announced involves a product they may own. If the consumer has forgotten the name of the manufacture (or never learned of it in the first place), which is entirely possible and likely as many consumer products have long use periods, the success of the recall will hinge on whether the consumer can simply examine the product to determine if the product is subject to the recall.

2. Consumers' ability to participate in the recall

With the manufacturer, distributor, retailer or importer's contact information on the product—including name, address and telephone number, or name, telephone number and web address—consumers will be in a better position to participate in the recall. Consumers who hear about recalls from friends or acquaintances (who may not have the contact information) or who may hear about the recall from a radio or TV report, at a time when they are unable to take down the contact information, will still be able to contact the manufacturer to learn how to receive the recall remedy. If all children's products contain this information, parents and others will feel empowered every time a recall is announced by CPSC because they will know that all they have to do is look at the product and call the telephone number or use the mail or web address to find out what action they should take.

3. CPSC's ability to investigate and recall unsafe products

CPSC needs to be able to identify the manufacturer (distributor, retailer, or importer) in order to begin an effective investigation and possible recall action, CPSC staff have indicated that there have been cases where a product was not recalled, despite a hazard determination by staff, because they could not identify the manufacturer.

There have been at least two cases where a child has died on a product with a hazardous design and the manufacturer's name was not on the product.⁶ It is our understanding that CPSC has not recalled these two products because they are unable to identify the manufacturer. Coincidentally, both products are baby changing tables. From the investigation

⁵ "Label" is defined by the statute as writing on the immediate container or if the article is unpackaged or is not packaged in an immediate container, then the information must be on the article or a tag affixed to the product. FHSA, section 2(n), 15 U.S.C. section 1261.

⁶ In the late 1980s CFA learned of a defectively designed play yard that had caused the death of a child and asked CPSC why the product had not been recalled. CPSC Compliance staff told us it was because CPSC was unable to identify the manufacturer because there were no markings on the product. From our vantage point it is very difficult to determine how many other cases there might be of hazardous products never recalled because of lack of identifying information on the product.

In the first case, Logan Vash, a ten-month old boy was fatally injured on June 8, 1999 when his neck became trapped between the frame of a changing table and a light weight shelf. The shelf was resting on clip supports on the frame. Logan crawled on to the first shelf and then stood up. His head lifted the second shelf off of the supports, and he put his head through the opening. But when his head went over the frame member, his neck came down on the ¾ inch frame edge. The shelf, which acted like a hinged cover, came down on the back of his head and neck and he died after approximately two minutes in this position.^{7 8}

In the second case, a 16 month old boy died on March 5, 1989 of asphyxiation by hanging when he became entrapped in an opening in the back of his changing table. The boy and his twin brother were active toddlers and had previously climbed the open shelves of the changing table. The changing table had been turned around to prevent them from climbing the table. The backside of the table, facing outward into the room had two six inch high gaps in the woodwork/railing. When the victim was found he was almost in an upright position with his feet just off the ground. His head was wedged with the chin over the railing that was 21 inches off the floor. He was looking directly back towards the wall behind the furniture. When first found, the father stated that he thought the subject was just standing there.^{9 10} The investigation reports states: " There was no brand name or serial number on the furniture."

To determine the ease of purchasing products without a manufacturer's (or distributor, retailer or importer) name on the product, CFA staff visited four stores between June 14-19, 2001 and was able to purchase, in all four stores, either new or second hand products for children that have no manufacturer or other name on the product. These include: three dolls, one battery-operated toy car, pinwheels, a bag of rattles and toys trucks, and one used changing table.¹¹ We are not alleging safety problems per se with these products. However, should a safety hazard be identified ever with these products, it would be impossible to determine who made them and who should be responsible for carrying out a recall.

The incidents cited, as well as the ready availability of unmarked products, strongly supports a change in existing regulations. Congress could not have intended to give CPSC recall authority and then expect that manufacturers would be allowed to thwart or circumvent implementation of that authority by failing to place the company's name on the product.

⁷ This description is taken from the CPSC Epidemiologic Report, number 990914CAA3479 (see Appendix B).

⁸ Logan Vash's mother has requested that the ASTM voluntary standard for changing tables (currently being drafted) address movement of shelves in changing tables to prevent such entrapment incidents.

⁹ This description is taken from Multnomah County Medical Examiner's Office Report Form, Circumstances description, p.4 (see Appendix C).

¹⁰ The draft ATSM voluntary standard on changing table contains a test that would not allow such entrapment spaces in changing tables.

¹¹ We also found a battery-operated toy guitar that had one very small paper label (about to come off the product) with the words "Toy Wonders" stuck in the inside bottom of the battery compartment. There were no other marking anywhere on the product. There was also no manufacturer's name on the box so it was difficult to determine whether Toy Wonders is the manufacturer.

C) Direct-to-Consumer Notification

Another means of increasing the effectiveness of consumer product recalls is direct-to-consumer notification of the recall. By identifying consumers who purchased the product, manufacturers are able to contact them directly to communicate about a safety recall.¹² This currently occurs on a very limited basis and mechanisms to obtain consumer information that would facilitate such notification are inadequate and inappropriate.¹³

To better assess the adequacy of consumer warranty or registration cards included with new consumer products, in 1999, CFA collected a sample of 17 cards that were included with new products. From this sample, we learned the following about product registration cards:

- ❑ **Manufacturers do not disclose that these cards might (or could be) be used to give consumers notice of recalls.** Of the 17 cards we reviewed, only one manufacturer suggested that this might be a use of the registration card.¹⁴ There is no effort made to inform consumers that the return of the card could enable them to receive important safety recall information about their product (should that need arise).¹⁵
- ❑ **Cards used appear primarily to be marketing and consumer data collection tools.** Every registration card collected by CFA asked numerous questions of the consumer, over and above name, address and model number (or the "basics" needed for safety recall or warranty reasons). It was not uncommon for companies to ask 20 or more questions of

¹² The suggestion of requirements for direct-to-consumer notification of product recalls is not new. See, Recall Procedures for Unsafe Products Sold to the Public, Report by the Committee on Consumer Policy, Organisation for Economic Cooperation and Development ["(d)irect notification of consumers is preferable, although this does not necessarily preclude the use of media, at 15]; and "Recall Effectiveness and the Communications Clutter, Harland W. Warner, Public Relations Quarterly, Fall 1980, 21 ["The government might consider developing a uniform recall communications program to be part of all warranty information." at 23]

¹³ In fact, the failure of manufacturers to learn who bought their products, and hence their inability to contact buyers other than through commercial advertising, has been listed as a reason for CPSC's low recall return rate. See "Recalls and the Remediation of Hazardous or Defective Consumer Products: The Experience of the Consumer Product Safety Commission and the National Highway Traffic Safety Administration," Richard J. Tobin, The Journal of Consumer Affairs, Winter, 1982, volume 16, no.2, 278, at 295.

¹⁴ The Sharp Electronics Corporation card stated: "We will keep your model number, serial number and date of purchase on file, and help you access that information in case of loss, damage or theft. This will also enable us to contact you in the unlikely event that any adjustments or modifications are ever required for your oven."

¹⁵ The drawbacks of using the traditional warranty or registration card have been described as follows: "Sophisticated consumers are increasingly aware that a warranty applies to a purchased product whether or not they fill out and return the manufacturer's warranty card....Another reason suggested for the frequent discarding of warranty cards is that their design often makes it patently obvious to knowing buyers that the cards are intended more to provide manufacturer with market research data than to assure owner registration." (Editor note) "Identification of Products for Potential Recall," Gordon H. Robertson, in Managing Product Recalls, edited by E. Patrick McGuire, A Conference Report from The Conference Board, 1974.

- consumers.¹⁶ It is clear from the type and number of questions being asked, that these cards are intended for marketing research purposes.
- **Postage is not prepaid on most registration cards.**
In our sample, 76% of the cards required that the consumer affix proper postage.
- **Consumer privacy is generally not protected by companies using registration cards.**
Only two companies' cards that we examined stated that they would not release the consumer's information to anyone. On ten cards (representing nine companies), the consumer was required to affirmatively opt out of having their name disclosed. Five companies made no statement at all regarding privacy or the use of the information, meaning that the company was free to sell or otherwise use that personal information. Protection of consumer privacy is a major concern to consumers and failure to protect personally identifiable information is an incentive for consumers not to participate in any registration program.

It is clear that the current warranty/marketing consumer registration cards are not appropriate for the Direct-to-Consumer notification regulation sought by this petition. Providing Consumer Safety Registration Cards that are postage-paid and pre-labeled with product name and model number and that clearly convey use only in the event of a safety recall or hazard and include privacy protections would significantly enhance consumer participation. Being directly and personally notified and /or reminded of a hazard that could hurt, or even kill, their baby will, we contend, be very effective in enhancing recall participation by parents and others.

III.

Action Requested

For the reasons enumerated above, the Petitioner requests that the Consumer Product Safety Commission issue regulations, under the authority granted it in section 10 (a) of the Federal Hazardous Substances Act, 15 U.S.C. 1269, to specify that recalls last indefinitely, to require manufacturer's name and contact information on children's products, and to provide Consumer Safety Registration Cards to purchasers of children's products:

Specifically, the Petitioner requests that CPSC issue regulations, applicable to all manufacturers, distributor, retailer, or importer of products intended for children, that:

- A) specify that **the remedy** provided by the manufacturer, distributor, importer or retailer, (to repair, replace or refund) as part of the recalls carried out under Section 15 of the FHSA and section 15 of the Consumer Product Safety Act (CPSA)¹⁷ with respect to products intended

¹⁶ 65% of our sample asked 20 or more questions, including two companies that asked 31 and 33 questions on their cards.

¹⁷ We specifically include the Consumer Product Safety Act (CPSA) reference here because of the Commission's previous decision to address toys, children's articles and furniture bearing lead-based paint under the CPSA and not the FHSA. See 16 C.F.R. section 1145.2.

- B) **for children be in effect indefinitely or as long as the manufacturer, distributor, dealer, retailer, or importer, is in business.** These obligations shall explicitly pass to the companies that acquire such a manufacturer, distributor, dealer, retailer, or importer who previously conducted a recall as described in section 15 of the FHSA and section 15 of the CPSC. In addition when a company, that has previously conducted a recall of a children's product, goes out of business, it shall file a report with CPSC notifying the agency of its business status. When a company changes its telephone number or any other contact information, it must report these changes to CPSC so that the new contact information can be made available to the public.¹⁸
- B) **require that the manufacturer (or distributor, dealer, retailer, or importer) have the following information permanently on every product and product part** (if the individual product part could be used separately by a consumer) intended for use by children:
- 1) **name, address and telephone number; or**
 - 2) **name, telephone number, and web address.**

Should the manufacturer (or distributor, retailer, or importer) choose to utilize a web address it must be one that has a recall section or button linking to a recall section, clearly identified on the home page of the website. Products (or product parts) intended for children that are smaller than one square inch in measurement, would be exempt from this requirement. However, if the Commission finds that products or product parts intended for children that are less than one inch square require manufacturer (or distributor, retailer, or importer) information because of a high frequency of recall or because of the hazardous nature of the product or product part, it may promulgate amendments to these regulations to address those products or product parts.

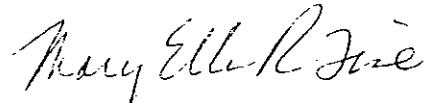
In addition to the name and contact information specified above, manufacturers (or distributor, retailer, or importers) shall have a means of identifying the product manufacturing period (if applicable) that can be placed on the product for identification purposes. If the manufacturer (or distributor, retailer, or importer) does not utilize an identifying mark specifying production period, then the Commission shall have the broad authority to recall all products in that category (regardless of batch or production period).

- C) **require that manufacturers (or distributors, retailers, or importers) of products intended for children provide along with every product a Consumer Safety Registration Card that allows the purchaser to register information, through the mail or electronically.** Such information will allow the manufacturer to contact the purchaser in the event of a recall or potential product safety hazard. Such registration should specify that the Consumer Safety Registration Card:
- 1) **collect only that information needed to contact the purchaser (name and address or e-mail address). No other information may be collected.**
 - 2) **Be postage-paid by the manufacturer (or distributor, retailer, or importer).**
 - 3) **Be pre-labeled by the manufacturer (or distributor, retailer, or importer) with the name and model number of the product purchased.**
 - 4) **Contain a statement that the information collected will be used only in the event that the manufacturer needs to contact the purchaser to convey recall or other important safety information.**

¹⁸ We also ask CPSC Compliance Staff to contact the companies identified in this report and insist that they honor the recall. If CPSC learns that the company is not in business, we also request that the agency alert consumers, in addition to our doing so, of the dangers associated with these products and of the need to throw them away.

Manufacturers (or distributors, retailers, or importers) affected by this requirement may not sell, rent, share or otherwise disclose any information collected in connection with this provision and shall take reasonable measures to assure that the information collected is not used for any purpose other than alerting the purchaser of a product recall or other potential product safety hazard associated with the product. This information shall be maintained by the manufacturer (or distributor, retailer, or importer) for a minimum of 20 years, or the useful life of the product, whichever is longer. If a product is recalled by CPSC or the manufacturer (or distributors, retailers, or importers) determines that there is or may be a product safety problem associated with the product it shall use the information supplied by purchaser to contact all purchasers who have returned the registration cards to alert them to the recall remedy and the appropriate steps to take to correct the problem, or replace the product. CPSC shall require manufacturers (or distributors, retailers, or importers) to provide reports on its return rate with respect to Consumer Safety Registration Cards, as part of its reporting on the effectiveness of its recall (corrective action) program.

Respectfully submitted,



Mary Ellen R. Fise
Attorney for Petitioner
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1424 16th St., NW
Suite 604
Washington, DC 20036
(202) 387-6121
direct dial: (410) 296-4290

dated: June 21, 2001

APPENDIX A



Consumer Federation of America

**Report
on
CPSC PRODUCT RECALL INFORMATION**

Prepared by:

**Mary Ellen R. Fise
General Counsel**

**Susan Winn
SafeChild.net Project Manager**

**Consumer Federation of America
Consumer Federation of America Foundation**

June 21, 2001

This report examines the contact information provided in U.S. Consumer Product Safety Commission (CPSC) Press Releases announcing recalls of hazardous products intended for children.¹ The report identifies companies that fail to honor safety recalls and outlines regulation needed by CPSC to rectify this problem. This report is being released in conjunction with a petition by Consumer Federation of America (CFA) to CPSC that requests new recall regulations and enhanced enforcement efforts.

Background

On June 21, 2001, Consumer Federation of America Foundation is launching a new comprehensive child safety and health website, www.SafeChild.net, intended for parents, professionals who work with children, and advocates who work to protect children. This website will include all recalls of products intended for children from 1990 to present. Since consumers may have some products in their homes that have a long useful life (and typically a higher price tag) and that were recalled before 1990, the website includes older recall information on these products. These include: cribs, bunk beds, playground equipment, and all terrain vehicles. The website also contains some limited recall information on some products that, while not intended for children, promote safe environments for children (such as smoke alarms/detectors).

In preparation for listing all of these recalls on the SafeChild.net website, we contacted (and are still contacting)² the manufacturers, importers, distributors or retailers designated in the CPSC press release by calling the phone number listed in the release. These are the numbers that CPSC and the recalling company advise consumers to call to get more information about the recall remedy. We wanted to make certain that the information we intended to include for visitors to our website was accurate. Thus, we did not set out in this endeavor to prepare a report on recall contact information. However, a few days into calling we realized a disturbing pattern – that not all the contact information contained in the CPSC Press Releases was accurate and not all companies were continuing to honor recalls. When we first recognized a pattern, we began to keep notes on all contacts that were in error or where we talked to a company representative who indicated that they were no longer honoring the recall.

¹ We also contacted companies listed on the National Highway Traffic Safety Administration (NHTSA) website that have recalled child restraints (car seats).

² As of June 21, 2001 we are still contacting the companies involved in toy recalls. If we learn of additional cases where companies fail to honor a recall we will forward that information to CPSC.

On the SafeChild.net website, visitors can obtain recall information in three places. Each product discussed in the Parents section under the Super Category of *Products for Children* contains recall information as the last section of the product write-up. Recall information for products not intended for children, but which could affect a child's safety, is contained at the end of the articles on those topics (for example: smoke alarms/detectors). Finally, the Parents section of the website contains a category entitled *Recalls* where visitors can click on a product category and are taken to the product recalls for that product. In the near future this part of the website also will allow users to search for recalls by year. For each recall listed we include information on: Which Ones; Problem; What to Do; and the Recall Date. In the case of National Highway Traffic Safety Administration (NHTSA) recalls, we include the NHTSA number.

What We Found

To confirm recall information we placed calls to companies to check on a total of 595 recalls. Of these, we identified 108 cases involving 100 companies, listed in CPSC Press Releases and on the CPSC website, that fail to honor their recalls.³ Thus, 18% of the recalls we checked had faulty contact information or otherwise failed to honor their recall. In looking at the age of recalls not honored, 4% were recalls occurring in the 1980s, 61% were recalls occurring between 1990-1995, and 35% were recalls from the years 1996-2000. These failures fall into six categories:

Wrong Number: (62 cases) Typically this was a recording such as "your call cannot be completed as dialed" or "the number is invalid" or "this number is no longer in service." This category also includes calls answered by a person (including personal residences) or company that was clearly not the company listed in the recall.

Fax Machine or Pager: (7 cases) Here the telephone number called resulted in a fax machine beeping noise or pager beep.

Disconnected: (13 cases) These numbers resulted in a recording saying that the number was disconnected or no longer in service.

³ There were eight companies that each had two different recalls at different time periods where their contact information was inadequate in both cases. Two of these companies had different numbers for the different recalls and both numbers were deficient.

Always Busy: (2 cases) In these cases the phone number was always busy (during multiple attempts).

No Parts Available: (6 cases) In this category the call was answered, but in requesting information about the recall, we were told that the company was no longer honoring the recall because parts were not available. In one case the company said that they didn't make the product any longer and therefore were not honoring the recall.

Unsure of Continued Participation: (18 cases) For these calls, the company representative either did not know of the recall, claimed not to be part of any recall, indicated that the recall would only be honored for six years, or would be honored for six years if parts were still available. In one case the company told us that they had sent a letter to CPSC requesting that the case be closed because they had received very few returns. In many of the cases in this category we talked to several different people in the company.

See **Appendix A** for a complete list of the companies, recalls and responses to our CPSC product recall information checks.⁴

How Long Should a Recall be Honored?

To determine whether there was some undisclosed time limit on recalls that CPSC was negotiating with companies subject to recalls, we twice asked senior CPSC Compliance staff if there was any limit on how long a CPSC recall is in effect. Both times we were told unequivocally that recalls should last "indefinitely."⁵

⁴ In addition to the results listed in the chart in Appendix A, it should be noted that we often had difficulty getting through to companies not listed in this report. We had to phone these companies many times on several different days until the phone was answered. While not deemed a failure in this study, it most likely would have been had a consumer been contacting the company. After two or three tries, we suspect that most people would have given up.

⁵ M. Schoem, public comments at the International Consumer Product Health and Safety Organization Conference, February, 2001; and telephone conversation with A. Schoem.

Regulation Needed

In a petition to CPSC, CFA has asked that the agency promulgate a regulation, under section 10 of the Federal Hazardous Substances Act, to require all manufacturers, distributors, wholesalers and retailers to honor recalls entered into with CPSC **indefinitely**. In addition, when a company goes out of business or changes a telephone number or other recall contact information, the petition seeks a requirement that the manufacturer report this change to CPSC so that this information can be made available to the public.

We are also asking CPSC Compliance Staff to contact the companies identified in this report and insist that they honor the recall. If CPSC learns that the company is not in business, we are also asking CPSC to alert consumers, in addition to our doing so, of the dangers associated with these products and of the need to throw them away.

As part of this study we also contacted product manufacturers involved in NHTSA child restraints (car seat) recalls. We identified two companies whose 800 numbers were disconnected or where the call could not be completed. We plan to contact NHTSA concerning the contact information for these two companies.

Problem Recall Contacts

Notes

Date of recall	CPSC Release #	Product Manufacturer	Problem	Product Category	Number of Units Recalled	Result of contact*
7/	NHTSA 97X & 97Y Downunder		Shoulder Belt Placemer	Car Seat		
Jan-83	81-003	American Toy & Furniture	Entrapment	Playground Equipment	30,000	1
Feb-84	84-013	Bassett	Entrapment	Cnbs	7,400	1
Jul-85	85-035	Plays of America, Inc	Fire Hazard	Toy ATV	Undisclosed number	1
Apr-90	90-077	Fourth Little Pig	Suffocation	Infant Crib	3,000	1
May-90	90-087	Small World Toys	Choking & Laceration	Rattles	262	1
Aug-90	90-138	Bentley USA	Falls	Bicycles	1,600	1
May-91	91-075	Polymatics	Lead Paint	Art Supplies	700,000	1
Apr-91	91-114	Smith Cabinet Mfg. Co	Entrapment	Cnbs	1,735	1
May-92	92-058	M. Gumbacher	Lead Paint	Art Supplies	332,761	1
Mar-92	92-065	Island Wood Products	Falls	Swing Sets	8,500	1
May-92	92-085	Everything's a Dollar Store	Choking & Aspiration	Rattles	11,616	1
Jul-92	92-119	T.P.I.	Choking Hazard	Rattles	9,000	1
Sep-92	92-130	BRK	Hum Falsite	Smoke Detector	3,500,000	1
Apr-93	93-058	Rainbow Mountain	Entrapment	Youth beds & Halls	1,300	1
Jul-93	93-098	Pep Perego	Falls	High Chair	20,846	1
Dec-93	94-019	Rosako	Falls	Bunk bed	175,000	1
Jan-94	94-107	Sandoy	Choking Hazard	Bunk Bed	21,200	1
Jan-94	95-013	Dellong	Falls	Bunk Bed	Part of recall of 11,000 beds	1
Mar-94	94-043	Montgomery Ward	Falls	Bunk bed	13,000	1
Apr-94	94-076	Cosco	Entrapment	Youth beds & Halls	135,000	1
Apr-94	94-053	Bernards	Falls	Bunk bed	11,000	1
Oct-94	95-013	AGA	Falls	Bunk bed	Part of recall of 11,000 beds	1
Nov-94	95-016	Wholesale Warehousing	Choking	Alphabet Trucks	82,000	1
Nov-94	95-021	El Rancho Furniture	Entrapment	Bunk bed	10,000 to 14,000	1
Nov-94	95-151	Four Seasons	Choking	Push Toys/Limers	6,500	1
Dec-94	95-030	Inagination	Choking	Music Center Toy	500	1
Dec-94	95-034	Big Save International	Choking	Toy Trucks	1,000	1
Dec-94	95-049	Juni Toys	Burns/Fire Hazard	Micro Bike Ovens	168,000	1
Dec-94	95-050	Jude Express, Inc	Choking Hazard	Rattles	80,000	1
Mar-95	95-086	Zak Woodworks	Choking	Rattles	1,933	1
May-95	95-118	Free Pine	Entrapment	Bunk bed	Part of recall of 320,000 beds	1
May-95	95-118	H & H	Entrapment	Bunk bed	Part of recall of 320,000 beds	1
May-95	95-118	MAFCO	Entrapment	Bunk bed	Part of recall of 320,000 beds	1
Jul-95	95-151	Four Seasons	Choking/Aspiration	Push Toys/Limers	7,464	1
Sep-95	95-174	Arwood	Entrapment	Bunk bed	Part of recall of 41,000 beds	1
Sep-95	95-174	D & J Mattress	Entrapment	Bunk bed	Part of recall of 41,000 beds	1
Sep-95	95-174	Lee Anderson Furniture	Entrapment	Bunk bed	Part of recall of 41,000 beds	1
Sep-95	95-174	Pine Cone Rudes	Entrapment	Bunk bed	Part of recall of 41,000 beds	1
Sep-95	95-174	The Bunk Bed Shop	Entrapment	Bunk bed	Part of recall of 41,000 beds	1
Sep-95	95-174	Debi's Toys	Choking	Sticking Toys	24,000	1
Oct-95	95-011	Everything's a Dollar Store	Choking	Wooden Trucks	9,362	1
Feb-96	96-073	Unstuck suspension trucks	Falls	Bicycles	13,000	1
Mar-96	96-080	Toy-O-Rama	Choking/Aspiration	Stuffed Animals	33,000	1
Apr-96	96-099	Jude Express, Inc	Choking Hazard	Rattles	60,000	1
May-96	96-123	Kids II	Aspiration	Stroller Toy	59,000	1
Jun-96	96-169	Dolencorp	Choking	Kid Phone/Beeper	73,300	1
Nov-96	97-021	LEW	Entrapment	Bunk bed	Part of recall of 11,000 beds	1
Apr-97	97-095	Lewis	Entrapment	Bunk bed	Part of recall of 3,100 beds	1
Apr-97	97-095	Al Dan Trading	Choking	Cnd Toys	747	1
Jul-97	97-159	Pasco Products	Eye other injuries	Star Wars Dolls	140,000	1
Aug-97	97-176	Rosko Inc	Entrapment	Bunk Bed	Part of recall of 1,650 beds	1
Sep-97	97-193	Springbok Woodcrafters	Entrapment	Bunk bed	Part of recall of 16,500 beds	1
Sep-97	97-193	Al Dan Trading	Choking	Wooden Vehicle Toys	5,800	1
Oct-97	98-005	Sanna	Aspiration	Push Toys	29,000	1
Apr-98	98-102	Michael Friedman Corp	Choking & Aspiration	Rattles	2,000	1
Jun-98	99-134	Padua's Furniture	Entrapment	Bunk bed	Part of recall of 37,000 beds	1
Oct-98	95-018	Peg Perego	Fire and Injury	Riding Toy (Battery)	274,000	1
Mar-99	95-084	Little Me	Choking Hazard	Children's Clothing	7,200	1
Jul-99	95-147	Wards	Strangulation	Children's Clothing	Undisclosed number	1
Nov-99	00-0106	Frankie Sports	Fire Hazard	Basketball Net	Part of recall of 900,000	1
Dec-99	00-022	Action Performance Toys	Falls	Race Car Collectible	1,600	1
Feb-00	00-0630	Petco Imports	Falls	Strollers	100,000	2
Jan-01	91-034	Carlson Shag N Shooze	Suffocation	Baby Swamp/Crude	7,500	2
Jul-02	92-715	Gold Key	Falls	Bunk bed	50,000	2
Apr-94	94-051	Dan Bacher	Choking	Bladders & Trucks	63,000	2
Feb-95	95-078	Woodcrest Sales	Entrapment	Bunk bed	Part of recall of 3,000 beds	2
May-95	95-118	Hardwick Knitted Fabrics	Flammable Fabric	Children's Clothing	16,800	2
Jan-98	98-050					

Reason codes:
1-wiring number 2-tax machine or pager 3-disconnected 4-always busy 5-no parts available 6-unsure of continued participation

Problem Recall Contacts

Date of recall	CPSC Recall #	Product Manufacturer	Problem	Product Category	Number of Units Recalled	Result of contact*	Notes
Apr-98	98 100	Shen Mando Bicycles Asia	Shoring Injury	Baseball & Softball	12,000	2	
Mar-90	93 041	Shelwood Toy Mfg., Ltd.	Choking Hazard	Crib Toys	39,640	3	
Sept 82	92 134	Santa Fe Trading Inc.	Don't meet standard	BMX Sidewalk Bicycles	Unacknowledged Number	3	
May 93	93-046	Pansy Ellen Products	Falls	Booster Seats	580,000	3	Model # 415 only
Apr 94	94 118	Best Wear, Inc.	Strangulation	Children's Clothing	1,200	3	
Mar-95	93 095	Hebron Imports	Choking	Pop-pop Duds	975	3	
Mar-95	93 066	Pansy Ellen Products	Falls	Booster Seats	<i>no additional number given</i>	3	Model # 415 and Model #4156
Dec 95	96-049	Sanjour	Entrapment	Bunk bed	Part of recall of 31,400 beds	3	
Nov 96	97 030	Price Stern Sloan	Hazardous fluid	Nature Activity Book	34,000	3	
Apr-97	97 095	Chicken & Egg	Entrapment	Bunk bed	Part of recall of 3,100 beds	3	
Sept 97	97 393	Temple Pine Furniture	Entrapment	Bunk Bed	Part of recall of 1,650 beds	3	
Oct-97	98 004	AA of America	Choking	Bracelets - Party Favor	5,300 sets	3	
Dec-99	00-033	Katie Kruse	Choking Hazard	Soring Toy	2,400	3	
96-97	NHTSA 97E-012	Britax Child Safety	Buckle Failure	Car Seat	Unacknowledged Number	4	
Dec-83	83-062	Petland Incorporated	Entrapment	Playground Equipment	2.2 million	4	
Mar-90	91-054	Seward Luggage Co.	Strangulation/Suffocation	Toy Chests	2,700	5	
Apr-94	94 052	S&A	Falls	Bunk bed	930	5	
Jun 94	94 067	World Imports Ltd.	Falls	Crib	5,000 - 7,000	5	
Mar-95	95-088	Wishy Avenue Products	Entrapment & Falls	Crib	Part of recall of 370,000 beds	5	
Mar-95	95-118	Sunrise Cabinet Co.	Entrapment	Bunk bed	Part of recall of 41,000 beds	5	
Sept-95	95-174	Norwoods Corp.	Entrapment	Bunk bed	Part of recall of 3,100 beds	5	
Apr-97	97 095	Aune	Leakage/Aspiration/Strangles	Bunk bed	Unacknowledged Number	6	Should destroy product after six years - parts if available
Oct 90	90-157	Graco	Suffocation	Cradle Swing	169,000	6	Should destroy product after six years - parts if available
Feb 92	92 054	Graco	Entrapment/Strangulation	Swing Sets	Unacknowledged Number	6	
Aug 92	92 014	Blazon Flexible Flyer	Falls	Bunk bed	6,000	6	
Dec-93	94-024	SEI	Falls	Bunk bed	23,000	6	
Mar-94	94-039	L. Powell Co.	Falls	Bunk bed	Part of recall of 3,100 beds	6	
Jun-94	94-083A	IEM	Entrapment	Bunk bed	Part of recall of 370,000 beds	6	
May-95	95-118	Ell	Entrapment	Bunk bed	Part of recall of 41,000 beds	6	
May-95	95-118	Dover	Falls	Bunk bed	Part of recall of 41,000 beds	6	
Sept 95	95 174	Furniture Importers	Entrapment	Bunk bed	5,000	6	
Dec-95	96-053	Century	Warning Failure	Smoke Detector	166,000	6	Should destroy product after six years - parts if available
Apr-97	97 107	Century	Falls	Strollers	1,865	6	
Jun-97	97 145	Cosier Company	Choking/Entrapment	Crib	800	6	
Jun-97	97 145	C&T International	Entrapment/Strangulation	Crib	6,000	6	
Dec-97	98-045	Casco	Falls	Strollers/Car Seats	400	6	
Dec-97	98-047	B&B Stores of Puerto Rico	Suffocation	Portable Crib	8,000	6	
Nov-98	99-020b	Henry Gym Sets by Menard	Falls	Swing Sets	100,000	6	
Dec 98	99-032	IRIS, USA	Entrapment/Suffocation	Toy Chests	44,000	6	Letter to CPSC requesting file be closed. Few returns
99-074	99 074	Chanel Vision Publishing	Choking Hazard	Playset	100,000	6	

Reason codes
 1 = wrong number 2 = fax machine or pager 3 = disconnected 4 = always busy 5 = no parts available 6 = unsure of continued participation

APPENDIX B

11/15/94

1. TASK NUMBER 990914CAA3479		2. INVESTIGATOR'S ID 8360		EPIDEMIOLOGIC INVESTIGATION REPORT
3. OFFICE CODE 860	4. DATE OF ACCIDENT YR MO DAY 99 06 08	5. DATE INITIATED YR MO DAY 99 09 20		
6. SYNOPSIS OF ACCIDENT OR COMPLAINT CPC A ten-month old boy was fatally injured when his neck became trapped between the frame of a changing table and a light-weight shelf. The shelf was resting on clip supports and a rabbit of the frame. The boy lifted the shelf with his head and poked his head through the opening. The shelf came down on the back of his head. The boy expired after about two minutes.				
7. LOCATION (Home, School, etc.) Home - 1		8. CITY Livermore		9. STATE CA
10A. FIRST PRODUCT Changing table - 1502		10B. TRADE/BRAND NAME Unknown		10C. MODEL NUMBER Unknown
10D. MANUFACTURER NAME AND ADDRESS Mfg is unknown; retailer is Sears & Roebuck Company				
11A. SECOND PRODUCT None		11B. TRADE/BRAND NAME N/A		11C. MODEL NUMBER N/A
11D. MANUFACTURER NAME AND ADDRESS N/A				
12. AGE OF VICTIM 210	13. SEX Male - 1	14. DISPOSITION Fatal - 8	15. INJURY DIAGNOSIS Anoxia - 65	
16. BODY PART (S) INVOLVED All parts - 85	17. RESPONDENT Respondent - 1	18. TYPE OF INVESTIGATION other - 3	19. TIME SPENT (OPERATIONAL HOURS) 8.0	
20. ATTACHMENT(S) multiple - 9	21. CASE SOURCE Complainant 7-(H9990113A)		22. SAMPLE COLLECTION NUMBER None	
23. PERMISSION TO DISCLOSE NAMES (NON NEISS CASES ONLY)			There is no signed document	
24. REVIEW DATE 991015	25. REVIEWED BY 8101		26. REGIONAL OFFICE DIRECTOR	
27. DISTRIBUTION O:EHDS CC:				

CPSC FORM 182 (12/96) Approved

10/12/01
NOTIFIED
Comments made
through revisions
Excision
Firm has not
further notice

Product is
Produced by
Firm's Name
Comments Processed

went over the frame member, his neck came down on the 3/4 inch frame edge. The shelf, which acted like a hinged cover, came down on the back of his head and neck and the boy expired.

The problem, the mother realized, is that the second shelf is not tied down. Heavy items on the shelf would have kept it down, but the respondent had taken all such down from the shelf. The retailer where the subject table was allegedly purchased is currently carrying a very similar changing table in stock. However, the second shelf on that table is tied down. Apparently, the changing table of the type involved in the incident is of an older design. However, a number of such tables appear to still be in consumer's hands -- in speaking with people, the respondent has found two persons who have similar changing tables (i.e., tables with shelves that are not tied down); none were involved in an incident, but they could be, she told them.

PRODUCT DESCRIPTION:

The product is a (baby) changing table. One of two changing pads used was labeled [REDACTED]
 Manufacturer: The manufacturer remains unidentified -- the product has no identification.
 Retailer: The woman (neighbor) who purchased the table said, in a telephone interview with me, that she purchased the table brand new from Sears Roebuck in Concord, CA.
 Dimensions: The table is 20 inches wide, 36-1/4 inches long, and 39-1/2 inches high (bottom of leg to top of leg).

The top shelf (the changing shelf) is 32 inches high; the middle shelf is 19-1/2 inches high; the bottom shelf is 6-1/2 inches high. Each shelf is 34-3/8 inches long, by 18-1/2 inches wide, by 1/8 inch thick. The material of the shelves is pressed (fiber) board.

SAMPLE COLLECTED:

None. The respondent is holding the sample for a possible lawsuit.

EXHIBITS:

Assignment

Exhibit A: Police report, 10 pages.

Photographs:

- (1): The changing table
- (2): Close-up of one of the three shelves.
- (3): Reverse side of the shelf
- (4): The changing table without the shelves; also seen are the shelf support clips.
- (5): Close-up of a typical support clip.
- (6): The mother illustrates how she found her child.
- (7): Recreation of the incident with a toy bear.
- (8): Recreation, another view
- (9): Recreation, another view
- (10): Design on the headboard
- (11): Close-up of one of the decorative spindles
- (12): The table has a child safety belt.
- (13): The belt has a warning printed on it.
- (14): Close-up of the warning on the belt.

END

LIVERMORE POLICE DEPARTMENT
CRIME/INCIDENT REPORT

CRIME INCIDENT		ADDITIONAL OFFENSES IN NARRATIVE		PAGE 1 OF 6		CASE # 99-0608-12	
CODE SECTION AND DESCRIPTION				CLASSIFICATION	DAY OF WEEK	MONTH	DAY
1 Information only				9084	Tu	06	08
LOCATION OF INCIDENT				CITY	BEAT	AREA	
12 959 Algonquin Way, Livermore					13 01	14	
NAME (LAST, FIRST, MIDDLE OR ORGANIZATION)				RESIDENCE ADDRESS	CITY	RESIDENCE PHONE	
15 [REDACTED]				16 #12		17 [REDACTED]	
DATE OF BIRTH		ID NUMBER & TYPE	RACE	SEX	ADDITIONAL INFORMATION (VICTIM'S VEHICLE, IF APPLICABLE)		
18 071898		19 [REDACTED]	20 W	21 M	22		
OCCUPATION				BUSINESS ADDRESS		BUSINESS PHONE	
23				24		25	
NAME (LAST, FIRST, MIDDLE)				RESIDENCE ADDRESS	CITY	RESIDENCE PHONE	
26 [REDACTED]				27 #12		28 #17	
DATE OF BIRTH		ID NUMBER & TYPE	RACE	SEX	ADDITIONAL INFORMATION		
29 060673		30 A4891707	31 W	32 F	33		
OCCUPATION				BUSINESS ADDRESS		BUSINESS PHONE	
34				35		36	
SUSPECT #1 (LAST, FIRST, MIDDLE) <input type="checkbox"/> NOT SEEN				RACE	SEX	AGE	DOB
37				38	39	40	41
CLOTHING DESCRIPTION				ADDRESS		PHONE	
47				48		49	
SUSPECT #2 (LAST, FIRST, MIDDLE) <input type="checkbox"/> NOT SEEN				RACE	SEX	AGE	DOB
50				51	52	53	54
CLOTHING DESCRIPTION				ADDRESS		PHONE	
60				61		62	
ADDITIONAL INFORMATION / FURTHER SUSPECT DESCRIPTION (GLASSES, TATTOOS, SCARS, TEETH, ETC.)							CHECK IF MORE NAMES IN CONTINUATION <input type="checkbox"/>
63							64
HAIR LENGTH		HAIR TYPE		HAIR STYLE		PHOTOGRAPH	
65		66		67		68	
69		70		71		72	
73		74		75		76	
77		78		79		80	
81		82		83		84	
85		86		87		88	
89		90		91		92	
93		94		95		96	
97		98		99		100	
101		102		103		104	
105		106		107		108	
109		110		111		112	
113		114		115		116	
117		118		119		120	
121		122		123		124	
125		126		127		128	
129		130		131		132	
133		134		135		136	
137		138		139		140	
141		142		143		144	
145		146		147		148	
149		150		151		152	
153		154		155		156	
157		158		159		160	
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201		202		203		204	
205		206		207		208	
209		210		211		212	
213		214		215		216	
217		218		219		220	
221		222		223		224	
225		226		227		228	
229		230		231		232	
233		234		235		236	
237		238		239		240	
241		242		243		244	
245		246		247		248	
249		250		251		252	
253		254		2			

LIVERMORE POLICE DEPARTMENT
ADDITIONAL PERSONS

CASE #
99-0608-12

PAGE #		02	
VICTIMS/WITNESSES			
<input checked="" type="checkbox"/> V	<input type="checkbox"/> W	NAME (LAST, FIRST, MIDDLE) [REDACTED]	RESIDENCE ADDRESS [REDACTED]
DATE OF BIRTH 042364	ID NUMBER & TYPE C0517944	RACE W	SEX M
OCCUPATION		BUSINESS ADDRESS	BUSINESS PHONE
<input checked="" type="checkbox"/> V	<input type="checkbox"/> W	NAME (LAST, FIRST, MIDDLE) [REDACTED]	RESIDENCE ADDRESS [REDACTED]
DATE OF BIRTH 060754	ID NUMBER & TYPE B4200645	RACE F	SEX F
OCCUPATION		BUSINESS ADDRESS	BUSINESS PHONE
<input checked="" type="checkbox"/> V	<input type="checkbox"/> W	NAME (LAST, FIRST, MIDDLE) [REDACTED]	RESIDENCE ADDRESS [REDACTED]
DATE OF BIRTH 051529	ID NUMBER & TYPE [REDACTED]	RACE F	SEX F
OCCUPATION		BUSINESS ADDRESS	BUSINESS PHONE
<input checked="" type="checkbox"/> V	<input type="checkbox"/> W	NAME (LAST, FIRST, MIDDLE) [REDACTED]	RESIDENCE ADDRESS [REDACTED]
DATE OF BIRTH 060754	ID NUMBER & TYPE B4200645	RACE W	SEX M
OCCUPATION PASTOR		BUSINESS ADDRESS	BUSINESS PHONE
<input checked="" type="checkbox"/> V	<input type="checkbox"/> W	NAME (LAST, FIRST, MIDDLE) [REDACTED]	RESIDENCE ADDRESS [REDACTED]
DATE OF BIRTH [REDACTED]	ID NUMBER & TYPE [REDACTED]	RACE W	SEX F
OCCUPATION Physician		BUSINESS ADDRESS [REDACTED]	BUSINESS PHONE [REDACTED]
<input checked="" type="checkbox"/> V	<input type="checkbox"/> W	NAME (LAST, FIRST, MIDDLE) [REDACTED]	RESIDENCE ADDRESS [REDACTED]
DATE OF BIRTH [REDACTED]	ID NUMBER & TYPE [REDACTED]	RACE W	SEX F
OCCUPATION		BUSINESS ADDRESS	BUSINESS PHONE
SUSPECTS			
SUSPECT #		NAME (LAST, FIRST, MIDDLE) <input type="checkbox"/> NOT SEEN	
CLOTHING DESCRIPTION		ADDRESS	
SUSPECT #		NAME (LAST, FIRST, MIDDLE) <input type="checkbox"/> NOT SEEN	
CLOTHING DESCRIPTION		ADDRESS	
ADDITIONAL INFORMATION / FURTHER SUSPECT DESCRIPTION (GLASSES, TATTOOS, SCARS, TEETH, ETC.)		ADDITIONAL SUSPECTS	
HAIR LENGTH		HAIR TYPE	
HAIR STYLE		FACIAL HAIR	
COMPLEXION		MISCELLANEOUS	
SUSPECT 1		SUSPECT 2	
SUSPECT 3		SUSPECT 4	
SUSPECT 5		SUSPECT 6	
SUSPECT 7		SUSPECT 8	
SUSPECT 9		SUSPECT 10	
SUSPECT 11		SUSPECT 12	
SUSPECT 13		SUSPECT 14	
SUSPECT 15		SUSPECT 16	
SUSPECT 17		SUSPECT 18	
SUSPECT 19		SUSPECT 20	
SUSPECT 21		SUSPECT 22	
SUSPECT 23		SUSPECT 24	
SUSPECT 25		SUSPECT 26	
SUSPECT 27		SUSPECT 28	
SUSPECT 29		SUSPECT 30	
SUSPECT 31		SUSPECT 32	
SUSPECT 33		SUSPECT 34	
SUSPECT 35		SUSPECT 36	
SUSPECT 37		SUSPECT 38	
SUSPECT 39		SUSPECT 40	
SUSPECT 41		SUSPECT 42	
SUSPECT 43		SUSPECT 44	
SUSPECT 45		SUSPECT 46	
SUSPECT 47		SUSPECT 48	
SUSPECT 49		SUSPECT 50	
SUSPECT 51		SUSPECT 52	
SUSPECT 53		SUSPECT 54	
SUSPECT 55		SUSPECT 56	
SUSPECT 57		SUSPECT 58	
SUSPECT 59		SUSPECT 60	
SUSPECT 61		SUSPECT 62	
SUSPECT 63		SUSPECT 64	
SUSPECT 65		SUSPECT 66	
SUSPECT 67		SUSPECT 68	
SUSPECT 69		SUSPECT 70	
SUSPECT 71		SUSPECT 72	
SUSPECT 73		SUSPECT 74	
SUSPECT 75		SUSPECT 76	
SUSPECT 77		SUSPECT 78	
SUSPECT 79		SUSPECT 80	
SUSPECT 81		SUSPECT 82	
SUSPECT 83		SUSPECT 84	
SUSPECT 85		SUSPECT 86	
SUSPECT 87		SUSPECT 88	
SUSPECT 89		SUSPECT 90	
SUSPECT 91		SUSPECT 92	
SUSPECT 93		SUSPECT 94	
SUSPECT 95		SUSPECT 96	
SUSPECT 97		SUSPECT 98	
SUSPECT 99		SUSPECT 100	

CONTROLLED DOCUMENT
DUPLICATION OR REISSUANCE CONTROLLED BY LAW
LIVERMORE POLICE DEPARTMENT

REPORTING OFFICER: P.E. Moran
DATE AND TIME OF REPORT: 6/10/99
APPROVED BY: J. Tindler
DATE: 6-10-99

Livermore Police Department
Narrative

Page 3

990914CAA3479

Case Number: 99-0608-12

EXHIBIT A
PAGE 3 OF 10

[REDACTED] are married. LOGAN (10 months of age) is their child. For clarity they will be referred to by their first names in this report. [REDACTED] is FRIFOLEY's mother. [REDACTED] is [REDACTED]'s grandmother. [REDACTED] and [REDACTED] (the [REDACTED] pastor) were present at this incident at the time of my arrival.

On the listed date and time, LPFD and AMR crews responded to the listed address to the report of a non-breathing infant. Upon their arrival, they found LOGAN unresponsive. They began CPR. As I arrived, AMR transported LOGAN to Valley Care Hospital, Pleasanton. [REDACTED] followed AMR to the hospital in their own private vehicle. [REDACTED] remained at the home.

[REDACTED] explained that she and [REDACTED] responded to the VASH residence after receiving a telephone call (from [REDACTED]) regarding the medical emergency involving [REDACTED]. Upon their arrival at the [REDACTED], [REDACTED] told them that she placed [REDACTED] in his room to play while she worked in a separate room in the home. For a short period of time she did not hear any noises coming from [REDACTED]'s room and thought this was unusual. When she checked on his welfare, she discovered that [REDACTED]'s head and neck had become stuck in between a baby changing table shelf and shelf support rail. [REDACTED] was not breathing. FRIFOLEY freed LOGAN and called 9-1-1.

Prior to my leaving the [REDACTED] residence for Valley Care Hospital, I found a baby changing table laying on it's side in the front yard. LPFD and AMR crews explained that while they

Reporting Officer
P.E. Morton, #38
Distribution

Date
06/08/99

Approved By/Date

Clerical Action

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DUPLICATION OR REISSUANCE CONTROLLED BY LAW
LIVERMORE POLICE DEPARTMENT

J. Trudon #100 6-10-99

Livermore Police Department
Narrative

Page 4

990014CAA3474

Case Number: 99-0608-12

EXHIBIT A
PAGE 4 OF 910

were tending to [REDACTED] had thrown it out of the home during an emotional outburst due to [REDACTED] medical condition/emergency. Inside the [REDACTED] residence I noted that numerous baby safety measures were in use at the home, including safety gates and child-proof latches. The room in where the changing table had been kept was tidy. There was no sign of struggle or forced entry and I noted nothing unusual inside the home.

I responded to Valley Care Hospital several minutes behind AMR. Upon my arrival at the emergency room, hospital personnel were tending to [REDACTED]. At 1348 hours, Dr. [REDACTED] pronounced [REDACTED] dead. [REDACTED] advised [REDACTED] of [REDACTED] demise.

At various times throughout my stay at the hospital I spoke with [REDACTED] T, [REDACTED] in an attempt to discover what had happened to [REDACTED]. [REDACTED] were extremely emotional. Through [REDACTED] assistance I was able to obtain a similar verbal statement to that of [REDACTED]. [REDACTED] added that [REDACTED] was able to crawl on his own. They also said he was able to pull up his own body weight and stand while holding onto an object. They surmised that [REDACTED] crawled to the changing table and pulled himself up. At sometime while standing at the table, he got his head caught in between one of the shelves and its supporting frame. Also through our conversation, I was able to determine that [REDACTED] and [REDACTED] got the used changing table from a neighbor several months prior to LOGAN's birth. I was unable to determine how long [REDACTED] had been caught in the table.

CONTROLLED DOCUMENT
DUPLICATION OR REISSUANCE CONTROLLED BY LAW
LIVERMORE POLICE DEPARTMENT

Reporting Officer
P.E. Morton, #38
Distribution

Date
06/08/99
Clerical Action

Approved By/Date

J. [Signature] #1000 6-10-99

Livermore Police Department
Narrative

Page 5

990914CAA3479

Case Number: 99-0608-12

EXHIBIT A

PAGE 5 of 10

SGT. TRUDEAU also responded to this incident. He remained at the ~~residence~~ residence while I followed AMR to the hospital. CSS ~~BANKE~~ responded to the ~~residence~~ residence at my request. Upon her arrival, she photographed the residence and baby changing table. She collected the changing table and padding as evidence and responded to Valley Care hospital to photograph LOGAN.

~~LOGAN~~ was secured to a backboard via straps and a head bed. His body and extremities had signs of mottling and his body was cold to the touch. I saw no obvious signs of trauma to his person. I did note a small bruise to his left throat/neck area underneath the neck collar/brace he was wearing. CSS BANKE photographed LOGAN.

Valley Care hospital staff contacted ACSO Coroner's division and notified them of LOGAN's death. ACSO cleared LOGAN for movement to the morgue area of the hospital and I returned to Livermore.

Once back at LPD, I contacted ~~CS BANKE~~ who was booking the film and changing table from this incident (refer to property report). Upon further examining the table I noted its dimensions were approximately 4'5" tall, 3'00" wide, and 1'08" deep. It had a large changing pad on the top with an older, thinner pad underneath. The middle shelf was approximately 1'07" from the bottom. The lowest shelf was approximately 0'06" from the bottom. Both the middle and bottom shelf was made from a particle board material that was approximately 1/16" thick. Each shelf was loosely set on top of dowel-type pins on the inside.

Reporting Officer
P.E. Morton, #38
Distribution

Date
06/08/99

Approved By/Date

Clerical Action

CONTROLLED DOCUMENT

DUPLICATION OR REISSUANCE CONTROLLED BY LAW
LIVERMORE POLICE DEPARTMENT

J. Trudeau 6-10-99

Livermore Police Department
Narrative

Page 6

Case Number: 99-0608-12

frame of the table. Although the large pad appeared to be new, the remainder of the table and its components appeared to be original. There appeared to be no changes made to the table itself and there appeared no way to secure the shelves to the table. The table had no manufacture markings. The thinner changing pad had markings stating that it was made for the [REDACTED]. I was unable to make contact with the [REDACTED] Company to determine if they were the manufacturer of the changing table, and/or if there were any outstanding recalls on this product.

Recommendation: I completed this report to document the incident only. Refer this incident to CIU so as to contact ACSO Coroner Division to obtain a cause of death.

990914CAA3479

EXHIBIT A

PAGE 6 OF 10

CONTROLLED DOCUMENT
DUPLICATION OR REISSUANCE CONTROLLED BY LAW
LIVERMORE POLICE DEPARTMENT

Reporting Officer
P.E. Morton, #38
Distribution

Date
06/08/99
Clerical Action

Approved By/Date

J. Tucker #1000 6-10-99

Livermore Police Department
Narrative Report

Page 1

Case #99-0608-12

I am currently assigned to the criminal investigation unit of the Livermore Police Department as a crimes against persons detective.

On 06-14-99 I received this case for follow up investigation with the Alameda County Coroners Office in regards to the death of [REDACTED]

At approximately 1000 hrs I called the Alameda County Coroners Office and spoke with Deputy Coroner Jackie Washam and briefly discussed the details of this case. Dep. Washam informed me that the results of [REDACTED] autopsy are consistent with the facts in this case and that the cause of death of Vash was traumatic asphyxiation. (For further autopsy details, refer to the Alameda County Coroner's report #1999-01706).

990914CAA3479

EXHIBIT A

PAGE 7 OF 10

CONTROLLED DOCUMENT
DUPLICATION OFFENSES CONTROLLED BY LAW
LIVERMORE POLICE DEPARTMENT

es
Reporting Officer
Detective Garrison
Distribution

Date
June 14, 1999
Clerical Action

Approved by

8-910

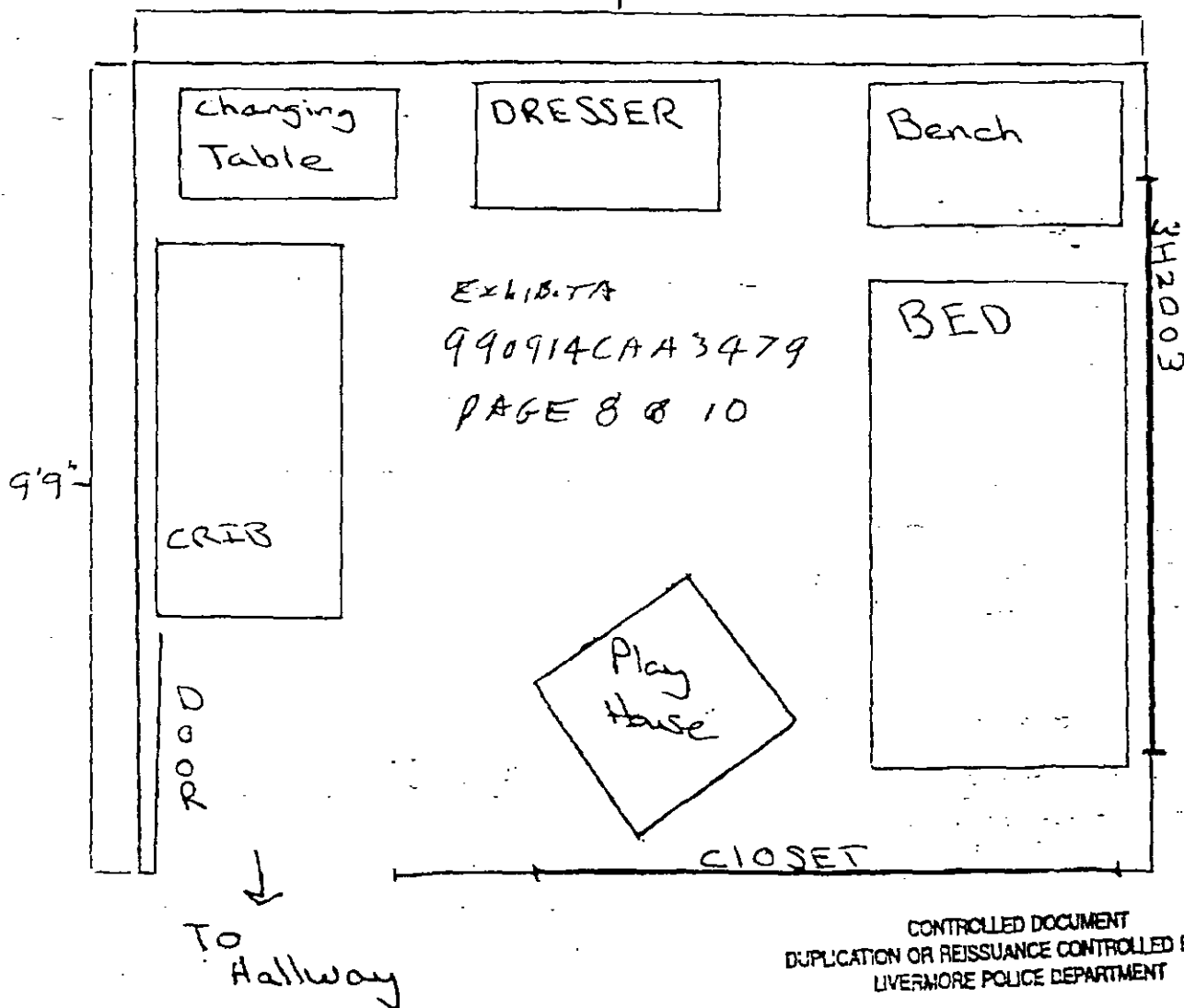
6-15-99

DATE OF COLLISION: MO. DAY YEAR	TIME (2400)	POCC #	OFFICER ID	NUMBER 99-0608-12
---------------------------------	-------------	--------	------------	----------------------

ALL MEASUREMENTS ARE APPROXIMATE AND NOT TO SCALE

***NOTE:** The changing table was not in the Bedroom at the time of the sketch, but was placed in the drawing to show its placement at the time of the occurrence.

12"



CONTROLLED DOCUMENT
 DUPLICATION OR REISSUANCE CONTROLLED BY LAW
 LIVERMORE POLICE DEPARTMENT

Northwest Bedroom at
 959 Algonquin Way

NOT TO
 SCALE

99-0608-12

PREPARED BY JL. Banke	LD. PLANNER CSSG	MO. DAY YEAR 060899	REVIEWER'S NAME R. Luers	MO. DAY YEAR 6 25 99
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LIVERMORE POLICE DEPARTMENT
NARRATIVE REPORT

CODE SECTION AND DESCRIPTION 1 Info. Only	CONTINUATION 2 <input type="checkbox"/>	SUPPLEMENTAL 3 <input checked="" type="checkbox"/>	CASE # 4 99-0608-12	PAGE 5 2
VICTIM'S NAME (LAST, FIRST, MIDDLE) 6	ADDRESS 7	PHONE 8		

NARRATIVE (INCLUDE ACTIONS AND CONVERSATION BY SUSPECT(S) AND VICTIM(S) AND OTHER EVENTS NOT PREVIOUSLY COVERED)

Although the changing table was not in the bedroom at the time I sketched the room, it was placed in the drawing for the purpose of showing its placement at the time of the incident. When I arrived at the scene, Sgt. Trudeau pointed out the area where the changing table had been. There also were marks and indentations on the carpet showing where the table had been.

990914CAH3479
EXHIBIT A
PAGE 9 OF 10

CONTROLLED DOCUMENT
REPLICATION OR REISSUANCE CONTROLLED BY LAW
LIVERMORE POLICE DEPARTMENT

REPORTING OFFICER K. Bonke	DATE AND TIME 8/08/99	REPORT WRITING TIME 10 min.	APPROVED BY R. G. 6/25/99	DATE 6/25/99	DISTRIBUTION	CLEAR C / T
-------------------------------	--------------------------	--------------------------------	------------------------------	-----------------	--------------	----------------

LIVERMORE POLICE DEPARTMENT
PROPERTY REPORT

<input type="checkbox"/> RECOVERED STOLEN PROPERTY <input checked="" type="checkbox"/> EVIDENCE <input type="checkbox"/> FOUND <input type="checkbox"/> SAFE KEEPING		PAGE 1 OF 1	
CODE SECTION AND DESCRIPTION 99-0608-12		DATE/TIME RECOVERED 06/08/99	
LOCATION OF OCCURRENCE CITY: LIVERMORE		CITY: LIVERMORE	
NAME (LAST, FIRST, MIDDLE) [REDACTED]		DATE OF BIRTH 07/18/58	
RACE W		SEX M	
ADULT INFORMATION (VICTIM'S VEHICLE IF APPL.) CITY: LIVERMORE		RESIDENCE ADDRESS CITY: LIVERMORE	
RESIDENCE PHONE 443-7809		CHECK IF MORE NAMES IN CONTINUATION <input type="checkbox"/>	
NARRATIVE / SPECIAL INSTRUCTIONS Refer to report for Narrative.		PHOTOS OF VICTIM AND PLACE OF OCCURRENCE	

ITEM 21201		ARTICLE NAME 35mm film		QTY 1		BRAND / MAKE OR MANUFACTURER 2450 - 1000		MODEL NAME 2450 - 1000		CASE / IF DISPERSED FROM BOX 2		EST 1000		VALUE 1000	
990914CNA 5479		EXHIBIT A		PAGE 10 OF 10		CONTROLLED DOCUMENT REPLICATION OR REISSUANCE CONTROLLED BY LAW LIVERMORE POLICE DEPARTMENT		DATE AND TIME OF REPORT 06/08/99		REPORTED BY 17. Banne CSS6		DATE 06/08/99		CLAIM 06/08/99	

PROPERTY RELEASE

RELEASED BY [REDACTED]		RELEASED FOR RELEASE BY [REDACTED]	
RECEIVED BY [REDACTED]		DATE/TIME RECEIVED 06/08/99	
DESTINATION 17 DA 00 UNO 00 CASH RECEIPTON 10 TO		CHECKED OUT 06/08/99	

INCIDENT INVESTIGATION REQUEST FORM

DOCUMENT NUMBER: H9990113A

DATE OF INCIDENT: 990608

CATID: SECTTR99

FOLLOW-UP REQUESTED

HAZARD ANALYSIS () SECT 15 (X)

TYPE FOLLOW-UP

TELEPHONE () ON-SITE ()

HEADQUARTERS CONTACT: Pam Major x 1373

Requested by: Terri Rogers x 1363

ASSIGNMENT MESSAGE:

NOTE CAA DESIGNATION: HIGH VISIBILITY ON AN INFANT PRODUCT

Please investigate the attached incident.

Request information from official sources including medical examiner and whoever has custody of the product.

Person(s) to Contact: SEE ATTACHED

Guidelines:

Task Number:

Date:

Assigned to:

Requested by:

990914 CAA 3479

9/14/99

SFOO

Faxed + mailed

Sep-15-99 08:14A cpsc#san francisco 0
SEP-14-1999 11:18+1 415 744 2962 P.04
JUN 1999 04:38 P.04/04

CONSUMER PRODUCT INCIDENT REPORT

Region: WESTERN

1. NAME OF RESPONDENT [redacted] (sic)	2. PHONE NO. (HOME) (WORK) 925-246-1900 none
3. STREET ADDRESS [redacted] Avenue	4. CITY STATE ZIP CODE Livermore CA 94550

4a. E-MAIL ADDRESS: none

5. DESCRIBE INCIDENT OR HAZARD, INCLUDING DATA ON INJURIES
 DEATH-Consumer placed 28 lb. son on the floor to play and approximately 5-7
 minutes later she returned to find son unconscious with his head trapped
 -cont-

6. DATE OF INCIDENTS 6/8/1999	7. IF INJURY OR NEAR MISS OBTAIN AGE/SEX 10 M/M AND DESCRIBE INJURY: death by strangulation	8. IF VICTIM DIFFERENT FROM RESPONDENT, PROVIDE NAME Logan RELATIONSHIP son
----------------------------------	--	--

9. DESCRIPTION OF PRODUCT
 wooden white changing table w/ cutout design

10. BRAND NAME
 unknown

11. MFR/DISTRIBUTOR NAME, ADDR. & PHONE
 unknown
 unknown
 unknown
 unknown
 unknown
 unknown

12. MODEL, SERIAL NUMBERS
 none

13. DEALER'S NAME, ADDRESS & PHONE
 Sears
 Sun Valley Mall
 Concord, CA
 925-246-1900

14. WAS THE PRODUCT DAMAGED, REPAIRED OR MODIFIED? YES NO x IF YES, BEFORE OR AFTER THE INCIDENT? DESCRIBE:

15. PRODUCT PURCHASED NEW x USED
 DATE PURCHASED 11/1993 AGE 5yrs/10m

16. DOES PRODUCT HAVE WARNING LABELS? IF SO, NOTE: none

17. HAVE YOU CONTACTED THE MANUFACTURER? YES NO x
 IF NOT, DO YOU PLAN TO CONTACT THEN?
 see narrative

18. IS THE PRODUCT STILL AVAILABLE? YES NO x
 IF NOT, ITS DISPOSITION
 Alameda County Coroner's office

19. MAY WE USE YOUR NAME WITH THIS REPORT?
 YES x NO

FOR ADMINISTRATION USE

20. DATE RECEIVED 09/10/1999	21. RECEIVED BY (NAME & OFFICE) jdf/HL	22. DOCUMENT NO. H9990113A
23. FOLLOW-UP ACTION 990914CAA3479		24. PRODUCT CODE(S) 1502
25. DISTRIBUTION		26. ENDORSER'S NAME & TITLE JDF 09/10/1999

CONSUMER PRODUCT INCIDENT REPORT

H9990113A

990914CAA3479

Narrative Continued

between space (exact size unknown) of changing table's shelf and its guard rail. Consumer freed son and began CPR. Husband called 911 and once paramedics arrived they performed CPR. Son was pronounced dead upon arrival at the local hospital ER by paramedics.

Consumer says there were no manufacturer or identifying markings on the changing table and consumer is waiting for the table to be released to her by Alameda County Coroner's Office.

Coroner's autopsy states the cause of death as traumatic asphyxia (referral # 1999-01706).

Distributor phone #: unknown

CPSC Source: HD

TOTAL P.04

Elmerton, Ct
(Alameda Co.)
Tri-Valley Peraldo
(Clr. D. 41,500)
(Clr. S. 45,400)

JUL 22 1999

Allen's P.E.B. Inc. 1111

Used furniture poses risk for babies

By Suzanne Pendragon
Staff Writer

LIVERMORE — Shortly before 1 p.m. on June 8, Fridley Vash walked into the bedroom of her 10-month-old son, Logan, and saw the worst sight of her life — one she likely will never forget.

Logan was hanging, neck-first, from the bottom of his changing table. His neck caught in a gap between a shelf and a support bar. Paramedics were unable to revive him.

Sunday would have been Logan's first birthday, and Vash wants to use the occasion to warn other parents of the possible dangers of used baby furniture.

A neighbor had given Vash the table, which didn't have a manufacturer's label. It was the first piece of used furniture she had accepted, and she now wishes she had hesitated.

"I don't blame (the neighbor) at all," she said. "It's not appropriate for things to be handed down through a line of mothers. And I can't blame myself, because it's not uncommon to have a nursery full of hand-me-downs."

Crib-safety lobby

That's just the problem, said John Lineweaver, president of the Dunny Foundation, an organization based in Alameda that lobbies legislators nationwide for stricter crib-safety laws.

While some baby furniture regulations have been in place since the late 80s, used furniture circulates widely in second-hand stores, between families and generations of the same family, he said. As many as 30 million unsafe cribs currently are in use, he estimated.

The Consumer Product Safety Commission website (www.cpsc.gov) lists hundreds of children's products that have been recalled since 1980. There are car seats, bunk beds, cribs, swings, umbrellas, pacifiers, strollers, playpens, rattles, and even a children's book, but no changing tables.

Lineweaver said simply checking to see if a product has been recalled is not enough.



The Vash family celebrated what would have been Logan Vash's first birthday Sunday afternoon at Memory Gardens cemetery in Livermore. From left, Logan's mother Fridley, 38, sisters Mariela, 4, and Jordan, 10, and father Stuart Vash, 35, pose next to a hand-crafted grave marker.

"Since recalls are so rare, parents might think their children are safe, but that is not the case," said Lineweaver, whose son Danny, then 2 years old, suffered permanent brain damage when his T-shirt caught in a crib post and strangled him. "Making your decisions to purchase on whether a product has been recalled is not the way to go."

Sentimental value

He said hand-me-down furniture is one of the most difficult problems to resolve, because people tend to attach sentimental value to children's furniture.

Jack Walsh, executive director of the Dunny Foundation, who is in Washington, D.C., to lobby for crib-safety legislation introduced by Rep. Ellen Tauscher, D-Tennessee Valley, said there is no regulation of changing tables.

"You can build any kind of changing table you want," he said.

Buying standards

He said the foundation advises parents to buy changing tables with barriers on four sides and no catch points, where a baby's clothing could be caught in a rail. Parents should also make sure the parts don't fall apart easily.

"People buy things in the most flimsy condition you can imagine," because it's so cheap, Lineweaver said.

In the Vash case, Logan was

underneath the table. He may have pushed the lightweight, particle-board shelf up with his head, because there was nothing holding it in place, a police report said. He then put his head above the horizontal support bar, and the shelf fell on his neck, trapping his head and suffocating him, the report said.

Livermore Police Officer Phil Morton said the changing table was about five to 10 years old and in good condition. He said he found a similar table at a second-hand store in Southern California, but the shelves locked into place, unlike the one the Vashes had.

Fridley Vash, 38, celebrated Logan's birthday Sunday at Memory Gardens cemetery in Livermore with her husband Stuart, 35, a grocery store sales clerk, and their daughters Mariela, 4, and Jordan, 10.

They brought balloons to his grave, because he loved balloons.

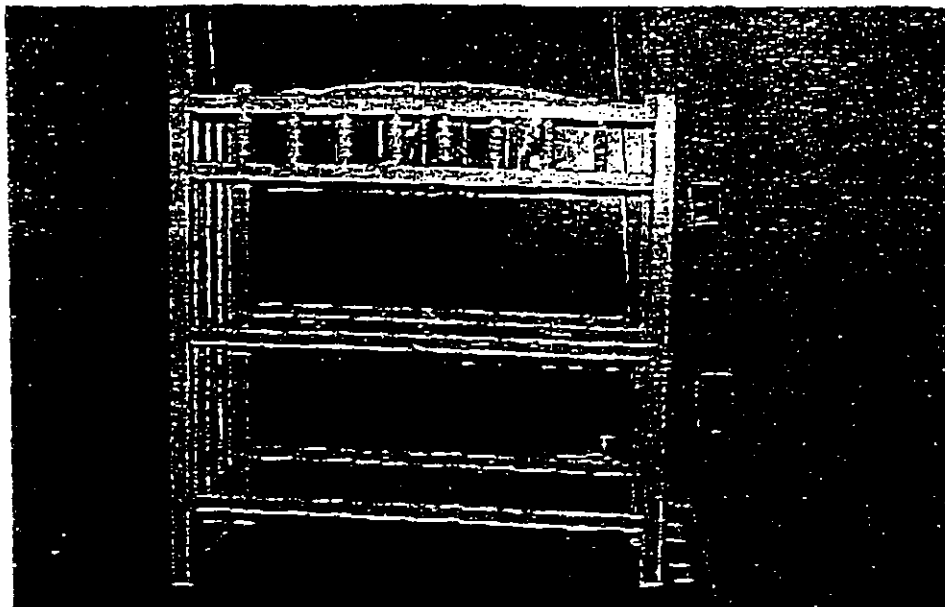
Logan delighted in attention, Fridley said. He would giggle, wave and blow kisses at passers-by. She said she still imagines herself cradling the knees in the wind.

"I keep thinking about how strong Logan is," she said, forgetting to use the past tense. "That little changing table took it all away."

And

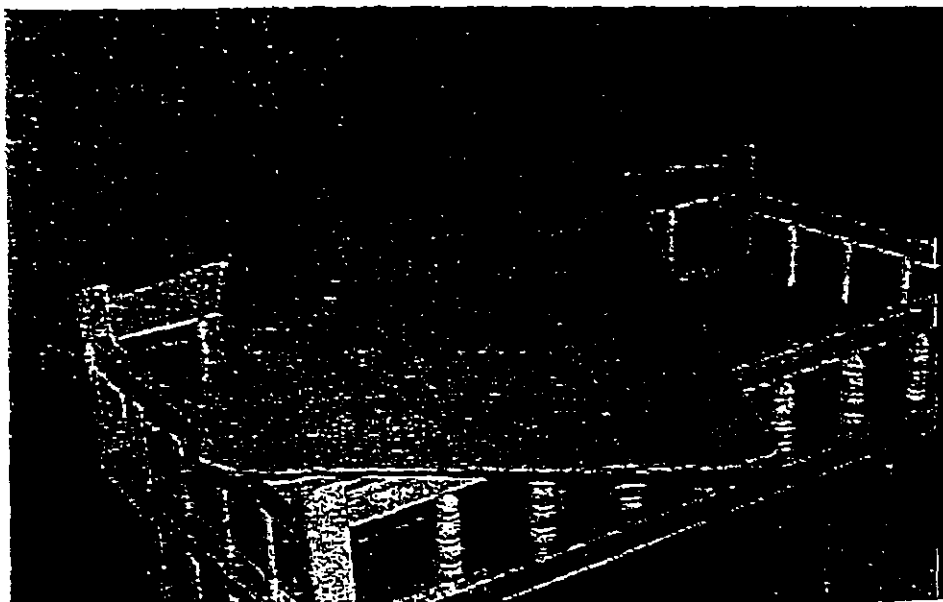
For more information about the safety of used children's

furniture, contact the Dunny Foundation at 800-633-2566 or www.dunnyfoundation.org, the Consumer Product Safety Commission, 800-638-2772 or www.cpsc.gov or Kids in Danger, www.kidsindanger.org.



PHOTOGRAPH 1:

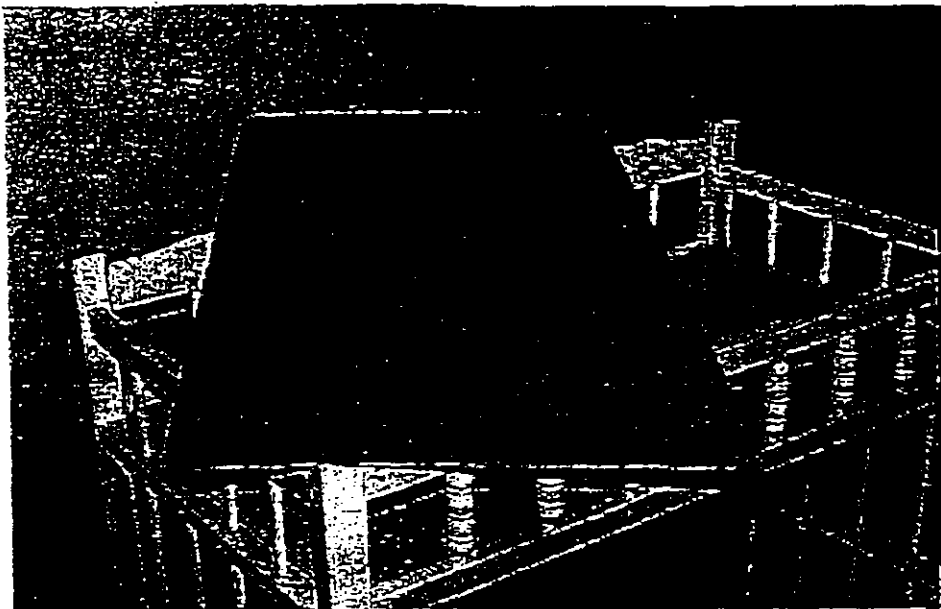
The changing table without the shelves, side view. Height of the table from the very bottom of the legs to the very top of the legs is 39-1/2 inches. The top (3rd) shelf is 32 inches high. The second shelf is 19-1/2 inches high; the bottom shelf is 6-1/2 inches high.



PHOTOGRAPH 2:

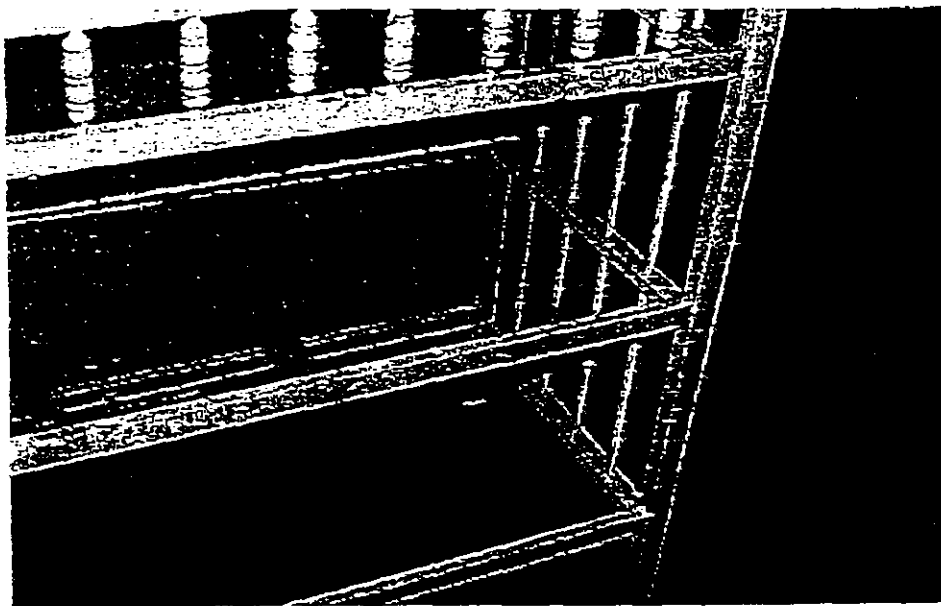
Close-up of one of the three shelves. The material is 1/8 inch pressed Board.

990914CAA3479



PHOTOGRAPH 3:

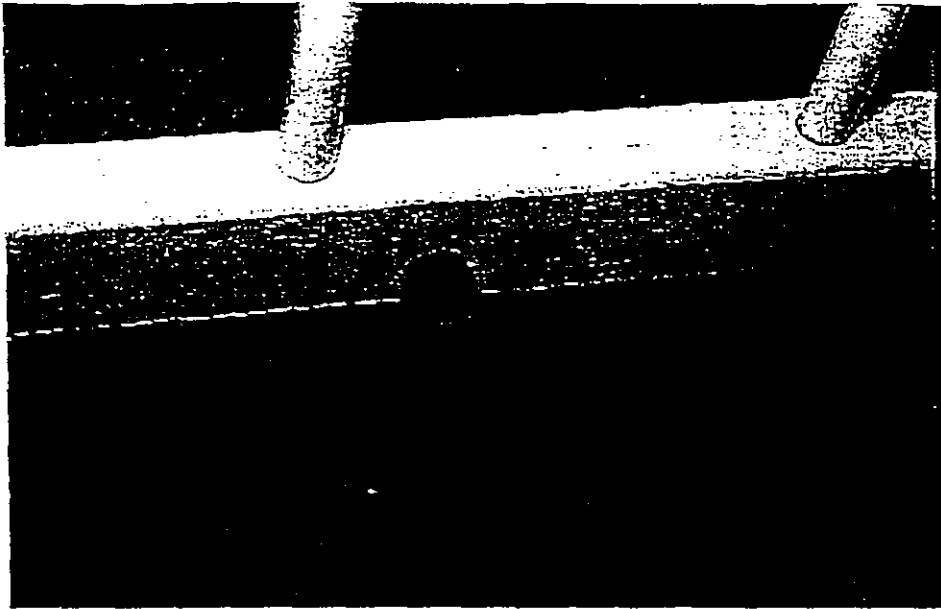
Reverse side of the shelf (all three shelves are identical). As can be seen, the material is pressed board.



PHOTOGRAPH 4:

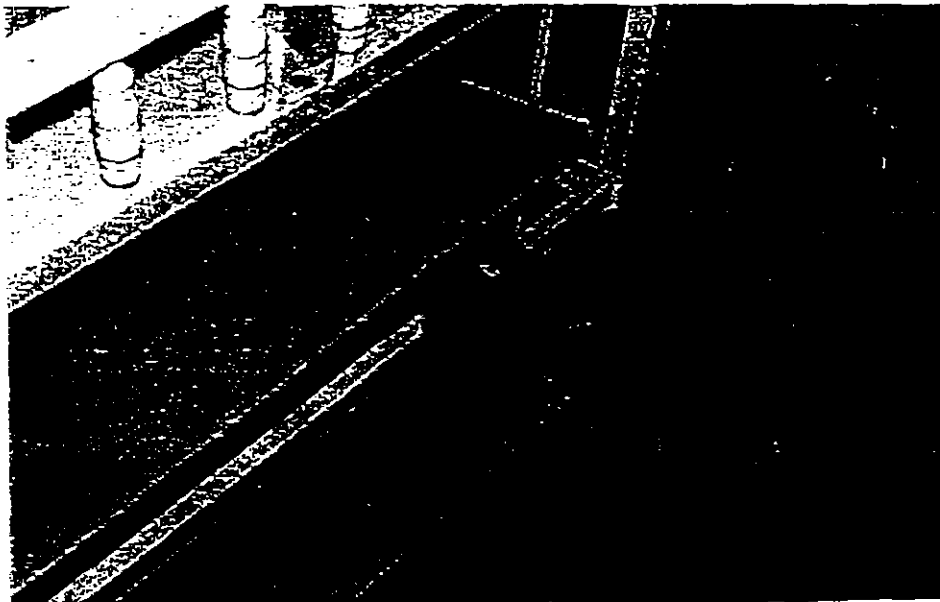
View of the frame without the shelves. The shelves are supported on the side by clips; the shelf ends are supported by a rabbet cut into the wood.

990914CAA3479



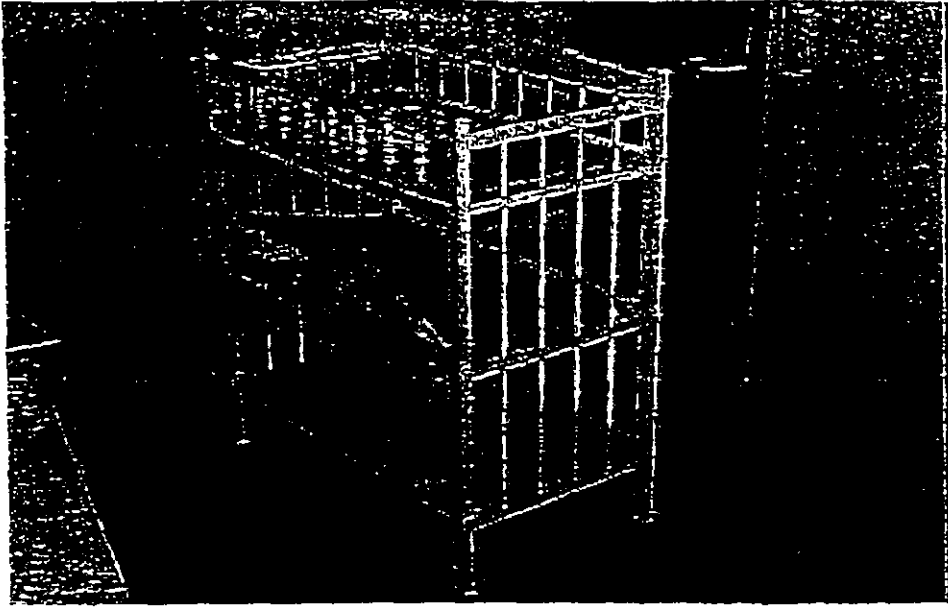
PHOTOGRAPH 5:

Close-up of a typical clip; the clips, which resembles those found on regular furniture shelves, fit tightly into drilled holes and appears to be glued in.



PHOTOGRAPH 6:

The child's mother demonstrates how she found her infant. The "lip" or edge of the support rail over which the band is bent is $\frac{3}{4}$ inch wide (the rail is $1\frac{1}{8}$ inches by $\frac{3}{4}$ inches).



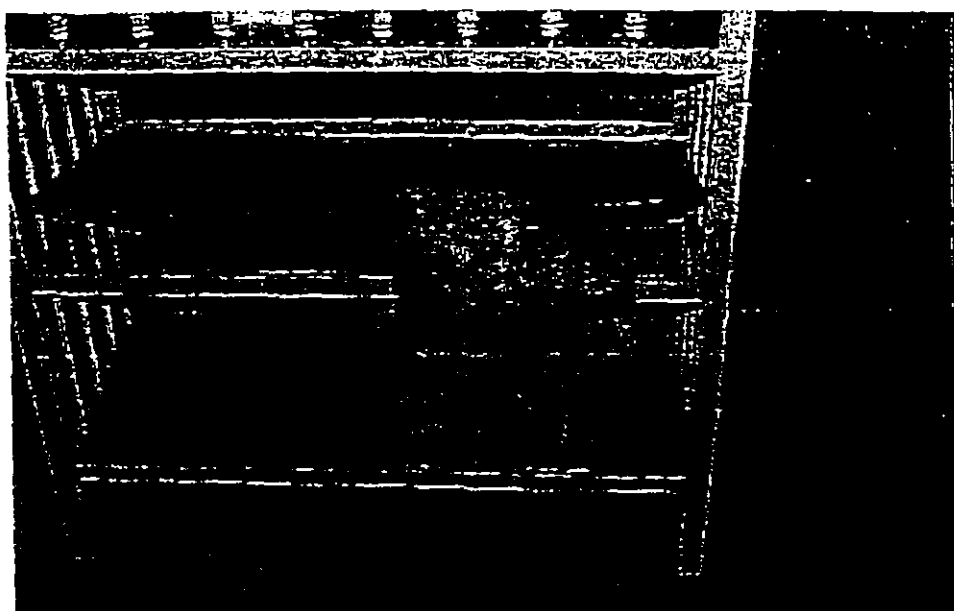
PHOTOGRAPH 7:

The toy bear, placed in position by the mother, further illustrates how she found the child.

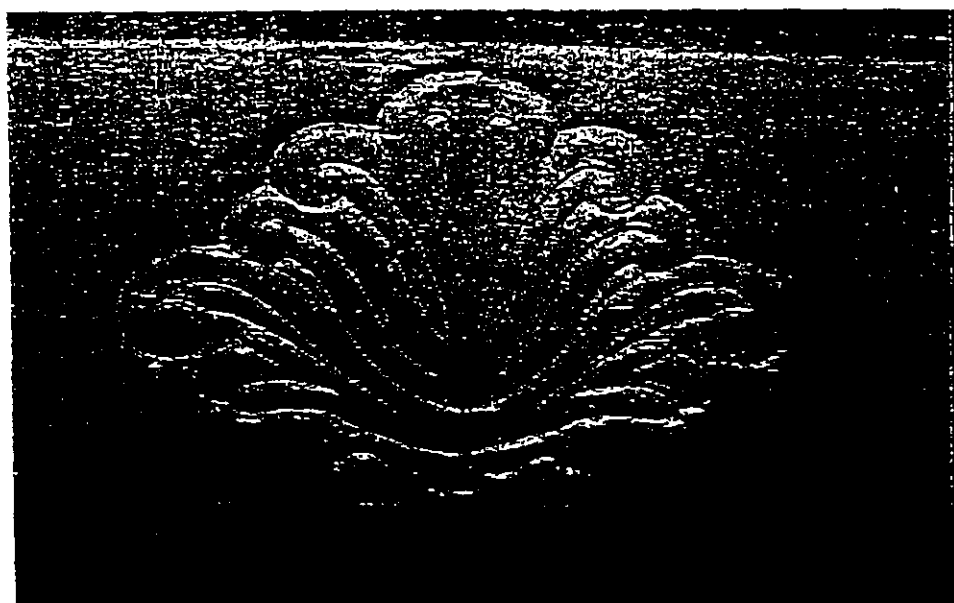


PHOTOGRAPH 8:

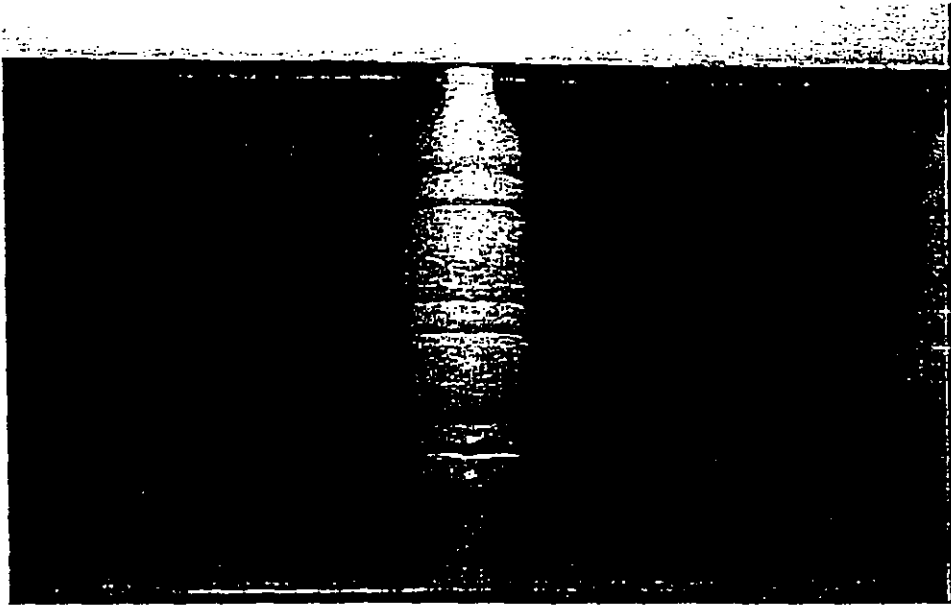
Recreation, another view.



PHOTOGRAPH 9:
Recreation, another view.

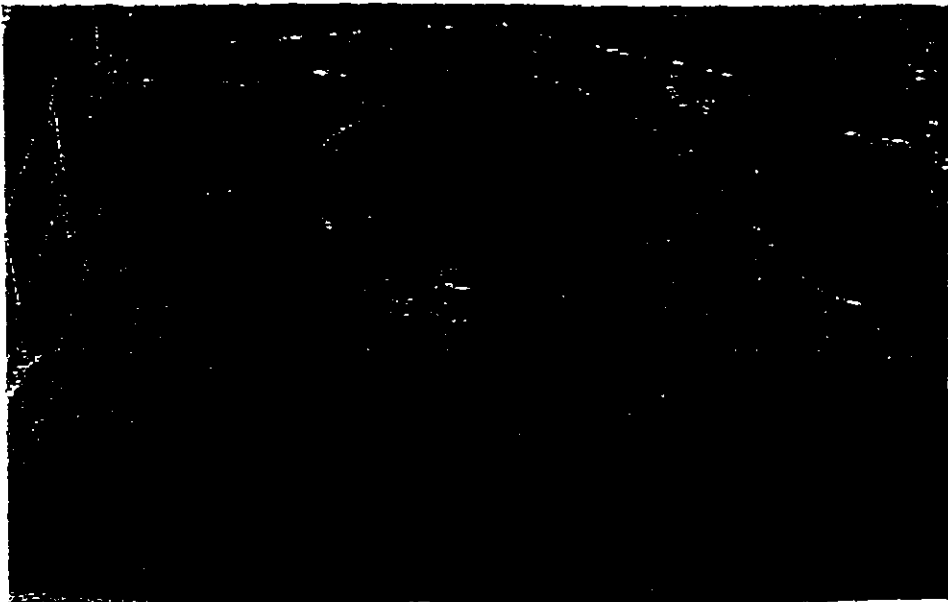


PHOTOGRAPH 10:
Design on the headboard (actually, one of the long sides of the table); it can serve as an identifying mark. The design is 4 inches high by 3 inches wide.



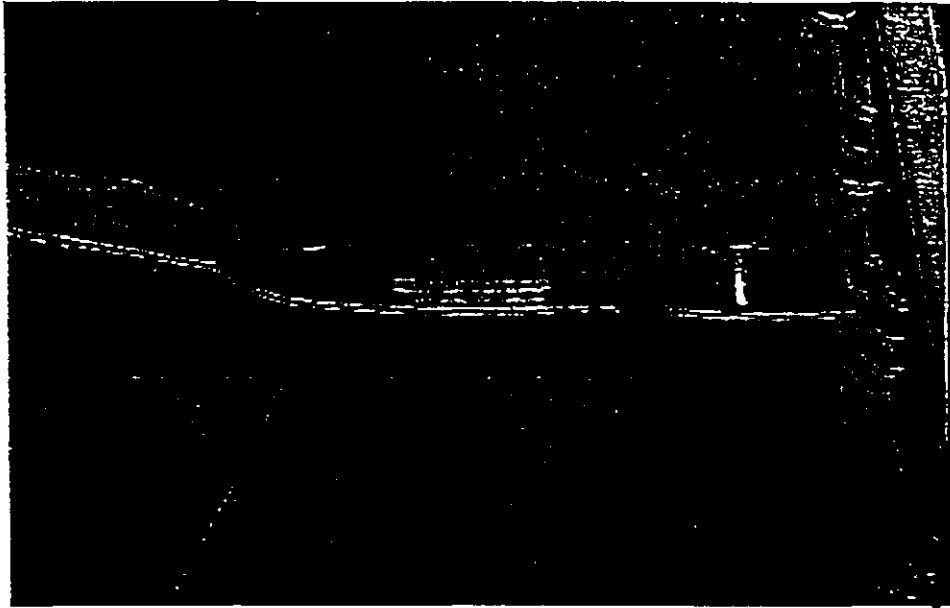
PHOTOGRAPH 11:

The decorative spindles can also serve as an identification. The spindle is 3-3/4 high by 3/4 inches wide in the middle.

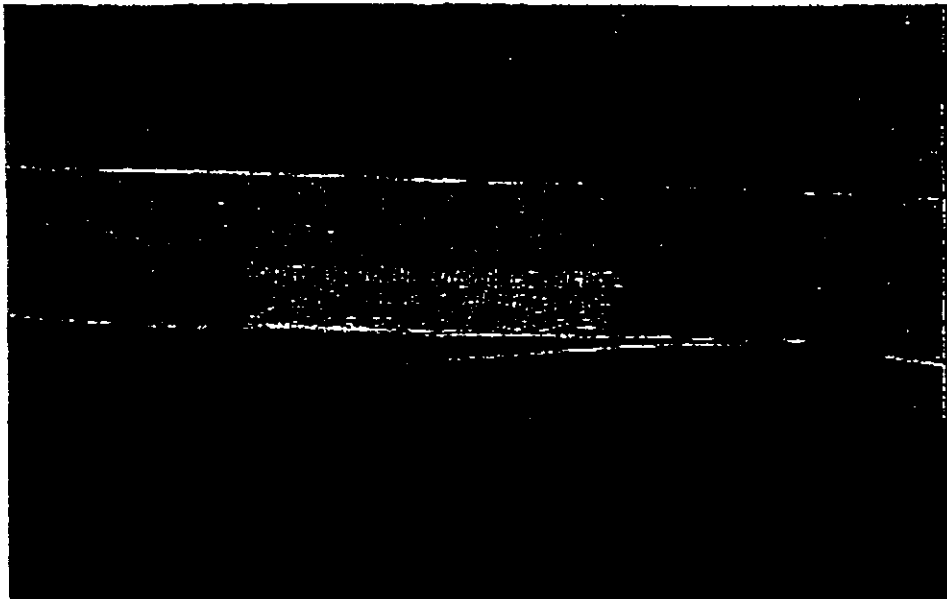


PHOTOGRAPH 12:

The changing surface of the table has a safety belt. The belt snaps into a corresponding part on the right-hand rail (possibly also on the left).



PHOTOGRAPH 13:
The belt has a safety warning on it.



PHOTOGRAPH 14:
Close-up of the printing.

APPENDIX C

MULTNOMAH COUNTY MEDICAL EXAMINER'S OFFICE REPORT FORM

301 N.E. Knott St., Portland, Oregon 97212 Phone 503-248-3746

Deputy Medical Examiner: [REDACTED] Date: 03-05-89 Case #: 89-0540 150
CEIV
MAR 7 - 1989
Medical Examiner's C

Case Reported: Date: March 05, 1989 Time: 18:20 Arrived at Scene: 18:42

Cause of Delay, if any: X93 0913 Eye Bank Notified: YES NO XX

A. DECEDENT DATA:

Name: [REDACTED] Age: 1 (Yrs.) Mos. Days. DOB: 10-17-1987

Sex: M XX F SS # Other #s

Race: White XX Black Indian Asian Hispanic Marital Status: (S) M W D

Occupation: Employed by: pre-school age Unemployed

Job Title Retired

(Died) (Found) at: Portland Adventist Medical Center - Emergency Department

Date: 03-05-89 Hour: 18:04 Found by Whom: father: [REDACTED]

(Injured) at: [REDACTED]

Portland, Oregon

Date: 03-05-89 Hour: 16:30 about County of Incident (Other than Mult.)

Admitted to Hospital: Date: 03-05-89 Hour: 16:50

Decedent's Home Address: [REDACTED]

Portland, Oregon Phone: [REDACTED]

Last Known Alive By: [REDACTED] (father) Date: 03-05-89 Time: 16:20

Address: [REDACTED] Phone: [REDACTED]

B. AGENCY DATA:

Name(s) of

Police: MCSO Case # Officers:

Fire: 253, Rescue 41 Ambulance: Buck Ambulance Other:

C. TRANSPORT AND MORTUARY DATA:

EPDS

Body Transported to ME Office: Yes xx No If Yes, Via: county vehicle MAR 27 1989

Reason for Transport to ME Office: examination selection of funeral home

Funeral Home: Gateway Little Chapel of the Chimes Named by: mother Date: 03-05-89

Funeral Home Address: Portland, Oregon

X930913

E. PHYSICIAN AND MEDICATION DATA:

F. BODY EXAMINATION DATA:

16 1/2 month old male, appears to have been well cared for. has slightly distended abdomen,
resuscitative artifact such as defibrillation burns, 1/2" linear indentation/contusion to
left chin. No other injuries.....

X 930913

Name of deceased: _____ Case #: 89-0540

G. CLOTHING AND JEWELRY DATA:

Clothing: (Describe Fully) nude

Jewelry: Y ☒ N Left with Body: Y N Removed to Property Room: Y ☒ N

Other Disposition: (Explain) _____

H. SEROLOGICAL DATA:

Blood Drawn: Y ☒ N If Yes, by Whom: _____

Admission Blood at Hosp. Y ☒ N Picked up: Y ☒ N By: _____

Blood Tested by Hosp. Y ☒ N Test Result: _____

Urine Drawn: Y ☒ N Vitrous Drawn: Y ☒ N Time Vitrous Drawn: _____

I. MISCELLANEOUS DATA:

Photographs at Scene: Y ☒ N If yes, by Whom: MBO: _____ - MCSO: _____

Crime Lab at Scene: Y ☒ N If yes, who: _____

Body Fingerprinted: Y ☒ N If yes by Whom: _____

How was Identification Made?: by father at the scene / hospital

J. INFORMANTS: (RELATIONSHIP & PHONE)

_____ - father _____

EPDS

MAR 27 1989

K. PATHOLOGY DATA:

Cause of Death: Asphyxiation by hanging

Manner of Death: Accident Other Significant Findings: _____

Autopsy: Y ☒ N If Yes, By Whom: _____ No Case: _____ Code: _____

L. NARRATIVE REPORT

Introduction:

X930913

This 16½ month old male infant died in the hospital emergency department about 70 minutes after being admitted in cardio-respiratory arrest shortly after being found in his home, lifeless, with his head caught in a piece of furniture. At this time, the manner of death appears to be accidental.

Circumstances: (Detailed)

Paramedics received a call from the father regarding the lifeless infant. They arrived to find the subject on the floor with the father doing mouth to mouth ventilations. The infant was found to be in asystole and the paramedics elected to do a rapid transport rather than doing resuscitation and attempting stabilization at the scene. The ambulance arrived to the hospital just seventeen minutes after their initial call for help.

The subject's rhythm changed to an Ideoventricular without pulses to Ventricular Fibrillation to Ventricular Flutter and back to asystole. At no time was there any sort of viable rhythm obtained.

The Emergency Department physician arranged for rapid transport to the Pediatric ICU at Emanuel and the Emanuel Transport Team arrived to the PAMC Emergency Room at 17:36 and took over the resuscitation efforts. This team was headed by Dr.

~~XXXXXXXXXX~~

EPDS

After 74 minutes in the ER, all efforts were ceased.

MAR 27 1989

The infant was viewed in the Emergency Room, other than resuscitation artifact and a distended abdomen, the only other injury observed was a small indentation/contusion in a linear fashion to his left chin. The emergency room personnel could not recall any other indentations/pressure marks that had since disappeared. The ER personnel nor the ambulance personnel had a clear understanding of the incident. They did state that a male friend with the father in the ER was quite obnoxious and demanding. The father and friend had left the ER prior to this writer's arrival.

Due to the above situation, it was decided to request MCSO Detective ~~XXXXXXXXXX~~ to accompany this writer back to the scene both for protection and photographs.

The scene is a small sparsely furnished apartment. It had a slight cluttered, lived in appearance. The subject and his twin brother had been in their bedroom with a gate across the doorway. It had been about ten minutes since they were last checked on when the father entered their bedroom to find the subject with his head caught in the woodwork of a diaper changing table and his feet "just barely" off the ground.

This changing table had three shelves and contained several stuffed animals and a cassette tape player. The table was turned backwards so as the open shelves were turned against the wall. The father stated that the twins were active toddlers and often climbed on this furniture.

The back side of the furniture, facing outward into the room had two six inch high gaps in the woodwork/railing.

When found, the subject was almost in an upright position with his feet just off the ground. His head was wedged with the chin over the railing that was 21" off the ground and his head slightly wedged. He was looking directly back towards the wall behind the furniture. When first found, the father stated that he thought the subject was just standing there, looking at some toys.

The table was believed to have bought at a second-hand furniture store. The father refinished to paint but made no other modifications. There was no brand name or serial number on the furniture.

NEGATIVE COMMENTED

Multnomah County
Medical Examiners Office

FOLLOW-UP INFORMATION

X930913

CASE # 89-0540

DATE 03-05-89

Name [REDACTED]

REQUEST DEPUTY:

ACTION TAKEN:

NARRATIVE CONTINUED

Detective [REDACTED] obtained 35 mm. photographs of the scene and subject and will make copies available to this office.

There was no known pertinent medical history.

The subject was removed to the M.E. Office for additional examination. A contusion on his chin appears consistent with resting against the rail as described by the father.



EPDS

MAR 27 1989